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**NEW YORK STATE**

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# **REGISTER**

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***INSIDE THIS ISSUE:***

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- Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards of Full and Fair Disclosure
- Hospital Non-Comparable Ambulance Acute Rate Add-On

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State agencies must specify in each notice which proposes a rule the last date on which they will accept public comment. Agencies must always accept public comment: for a minimum of 60 days following publication in the *Register* of a Notice of Proposed Rule Making, or a Notice of Emergency Adoption and Proposed Rule Making; and for 45 days after publication of a Notice of Revised Rule Making, or a Notice of Emergency Adoption and Revised Rule Making in the *Register*. When a public hearing is required by statute, the hearing cannot be held until 60 days after publication of the notice, and comments must be accepted for at least 5 days after the last required hearing. When the public comment period ends on a Saturday, Sunday or legal holiday, agencies must accept comment through the close of business on the next succeeding workday.

***For notices published in this issue:***

- the 60-day period expires on March 7, 2021
- the 45-day period expires on February 20, 2021
- the 30-day period expires on February 5, 2021

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**NEW YORK STATE DEPARTMENT OF STATE**

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# NEW YORK STATE REGISTER

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## Be a part of the rule making process!

The public is encouraged to comment on any of the proposed rules appearing in this issue. Comments must be made in writing and must be submitted to the agency that is proposing the rule. Address your comments to the agency representative whose name and address are printed in the notice of rule making. No special form is required; a handwritten letter will do. Individuals who access the online *Register* ([www.dos.ny.gov](http://www.dos.ny.gov)) may send public comment via electronic mail to those recipients who provide an e-mail address in Notices of Proposed Rule Making. This includes Proposed, Emergency Proposed, Revised Proposed and Emergency Revised Proposed rule makings.

To be considered, comments should reach the agency before expiration of the public comment period. The law provides for a minimum 60-day public comment period after publication in the *Register* of every Notice of Proposed Rule Making, and a 45-day public comment period for every Notice of Revised Rule Making. If a public hearing is required by statute, public comments are accepted for at least five days after the last such hearing. Agencies are also required to specify in each notice the last date on which they will accept public comment.

When a time frame calculation ends on a Saturday or Sunday, the agency accepts public comment through the following Monday; when calculation ends on a holiday, public comment will be accepted through the following workday. Agencies cannot take action to adopt until the day after expiration of the public comment period.

The Administrative Regulations Review Commission (ARRC) reviews newly proposed regulations to examine issues of compliance with legislative intent, impact on the economy, and impact on affected parties. In addition to sending comments or recommendations to the agency, please do not hesitate to transmit your views to ARRC:

Administrative Regulations Review Commission  
State Capitol  
Albany, NY 12247  
Telephone: (518) 455-5091 or 455-2731

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KEY: (P) Proposal; (RP) Revised Proposal; (E) Emergency; (EP) Emergency and Proposal; (A) Adoption; (AA) Amended Adoption; (W) Withdrawal

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Individuals may send public comment via electronic mail to those recipients who provided an e-mail address in Notices of Proposed Rule Making. This includes Proposed, Emergency Proposed, Revised Proposed and Emergency Revised Proposed rule makings. Choose pertinent issue of the *Register* and follow the procedures on the website ([www.dos.ny.gov](http://www.dos.ny.gov))

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# RULE MAKING ACTIVITIES

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Each rule making is identified by an I.D. No., which consists of 13 characters. For example, the I.D. No. AAM-01-96-00001-E indicates the following:

AAM      -the abbreviation to identify the adopting agency  
01        -the *State Register* issue number  
96        -the year  
00001    -the Department of State number, assigned upon receipt of notice.  
E         -Emergency Rule Making—permanent action not intended (This character could also be: A for Adoption; P for Proposed Rule Making; RP for Revised Rule Making; EP for a combined Emergency and Proposed Rule Making; EA for an Emergency Rule Making that is permanent and does not expire 90 days after filing.)

Italics contained in text denote new material. Brackets indicate material to be deleted.

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## Office of Children and Family Services

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### NOTICE OF ADOPTION

**Requires Training on Adverse Childhood Experiences (ACEs), Focused on Understanding Trauma and on Nurturing Resiliency**

**I.D. No.** CFS-36-20-00003-A

**Filing No.** 924

**Filing Date:** 2020-12-22

**Effective Date:** 2021-01-06

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendments of sections 414.14(d), 416.14(f), 417.14(f), 418-1.14(d), 418-2.14(d) of Title 18 NYCRR.

**Statutory authority:** Social Services Law, sections 20(3)(d), 34(3)(f), 390(2)(d), (2-a), 390-a(3)(b)(x)

**Subject:** Requires training on adverse childhood experiences (ACEs), focused on understanding trauma and on nurturing resiliency.

**Purpose:** Requires training on adverse childhood experiences (ACEs), focused on understanding trauma and on nurturing resiliency.

**Text or summary was published** in the September 9, 2020 issue of the Register, I.D. No. CFS-36-20-00003-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Frank J. Nuara, Associate Attorney, New York State Office of Children and Family Services, 52 Washington Street, Rensselaer, New York 12144, (518) 474-9778, email: regcomments@ocfs.ny.gov

### **Initial Review of Rule**

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2023, which is no later than the 3rd year after the year in which this rule is being adopted.

### **Assessment of Public Comment**

The agency received no public comment.

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## Department of Economic Development

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### NOTICE OF ADOPTION

**Excelsior Linked Deposit Program**

**I.D. No.** EDV-41-20-00014-A

**Filing No.** 918

**Filing Date:** 2020-12-21

**Effective Date:** 2021-01-06

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of sections 160.1-160.3; addition of section 160.8 to Title 5 NYCRR.

**Statutory authority:** State Finance Law, art. 15; L. 2011, ch. 60; L. 2012, ch. 58; L. 2013, ch. 59

**Subject:** Excelsior Linked Deposit Program.

**Purpose:** Administration of the Excelsior Linked Deposit Program.

**Text or summary was published** in the October 14, 2020 issue of the Register, I.D. No. EDV-41-20-00014-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Craig Alfred, Department of Economic Development, 625 Broadway, Albany, New York 12245, (518) 292-5110, email: craig.alfred@esd.ny.gov

### **Initial Review of Rule**

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 5th year after the year in which this rule is being adopted.

### **Assessment of Public Comment**

The agency received no public comment.



# Education Department

## EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

### Addressing the COVID-19 Crisis and Planning for the Reopening of Schools

**I.D. No.** EDU-01-21-00002-EP

**Filing No.** 915

**Filing Date:** 2020-12-17

**Effective Date:** 2020-12-17

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Proposed Action:** Amendment of sections 30-3.2, 52.21, 125.1, 135.4 of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 101, 207, 210, 215, 305, 803, 911, 3001, 3004, 3009 and 3012-d

**Finding of necessity for emergency rule:** Preservation of public health and general welfare.

**Specific reasons underlying the finding of necessity:** On January 30, 2020, the World Health Organization designated the novel coronavirus, COVID-19, outbreak as a Public Health Emergency of International Concern. On March 7, 2020, the Governor of New York State declared a State disaster emergency for the entire State of New York pursuant to Executive Order 202. Subsequently, the Governor issued additional Executive Orders in response to the COVID-19 crisis, including orders directing the closure of schools for the remainder of the 2019-2020 school year and 2020 summer school except for extended school year (ESY) services. In response, the Department adopted emergency regulations at the April, May, June, July, and September 2020 Board of Regents meetings to address numerous issues resulting from the interruptions caused by the COVID-19 crisis. The Governor of New York announced that schools across the State are permitted to open in the fall and required all school districts to submit reopening plans to the Department and the Department of Health. Therefore, to address additional issues resulting from the interruptions caused by the COVID-19 crisis and to prepare for the reopening of schools, it is necessary for the Department to adopt further regulatory amendments. The proposed amendments provide flexibility related to the following:

- Registration of voluntarily registered nursery schools and kindergartens;
- School Building Leader (SBL) programs;
- Annual professional performance reviews (APPR); and
- Coaching evaluations.

Because the Board of Regents meets at scheduled intervals, the earliest the proposed amendment could be presented for regular (nonemergency) adoption, after publication in the State Register and expiration of the 60-day public comment period required in the State Administrative Procedure Act (SAPA) sections 201(1) and (5), is the April 2021 Regents meeting. However, because the COVID-19 crisis is presently affecting the State of New York, emergency action is necessary for the preservation of public health and the general welfare in order to immediately provide flexibility for certain regulatory requirements in response to the COVID-19 crisis and to prepare for the reopening of schools.

It is anticipated that the proposed rule will be presented for adoption as a permanent rule at the April 2021 Regents meeting, which is the first scheduled meeting after the 60-day public comment period prescribed in SAPA for State agency rule makings. However, since the emergency regulation will expire before the April meeting, it is anticipated that an additional emergency action will be presented for adoption at the March 2021 Regents meeting.

**Subject:** Addressing the COVID-19 crisis and planning for the reopening of schools.

**Purpose:** To provide regulatory flexibility due to the COVID-19 crisis and to plan for the reopening of schools.

**Text of emergency/proposed rule:** 1. Section 125.1 of the Regulations of the Commissioner of Education is amended by adding a new subdivision (e) to read as follows:

(e) *Notwithstanding subdivision (b) of this section, any voluntarily registered school whose registration expires in the 2019-2020 or 2020-*

*2021 school year, and does not receive a required on-site visit from Department staff due to the COVID-19 crisis pursuant to subdivision (d) of this section, shall have such registration extended, subject to revocation for cause, and such registration shall be up for renewal in the 2021-2022 school year.*

2. Item (ii) of subclause (4) of clause (c) of subparagraph (i) of paragraph (7) of subdivision (c) of section 135.4 of the Regulations of the Commissioner of Education is amended to read as follows:

(ii) a professional coaching certificate shall be valid for a three year period, provided that such certificate may be renewed for additional three year periods upon the submission of a fee of \$50 together with a renewal application for each successive renewal period, in a form prescribed by the commissioner, which satisfactorily establishes that:

(A) ...

(B) the candidate has received a satisfactory evaluation by the principal or athletic director for each of the preceding three years that the candidate coached in the specific sport for which a professional coaching certificate is sought, provided, however that a candidate who held a temporary coaching certificate for the winter 2019-2020 [and/or], spring 2020, fall 2020, winter 2020-2021, and/or spring 2021 sports seasons shall not be required to have received an evaluation by the principal or athletic director [for the winter 2019-2020 and/or spring 2020] during the applicable sport [seasons] season(s) for the professional coaching certificate due to [school closures pursuant to] the State of emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis;

3. Clauses (a) and (b) of subparagraph (vi) of paragraph (2) of subdivision (c) of section 52.21 of the Regulations of the Commissioner of Education is amended to read as follows:

(a) Prior to [December] September 1, [2020] 2022, programs shall require candidates to complete studies sufficient to demonstrate, upon program completion, the knowledge and skills necessary to perform the following:

(b) On or after [December] September 1, [2020] 2022, programs shall require candidates to complete studies sufficient to demonstrate, upon program completion, the knowledge and skills necessary to:

4. The opening paragraphs of paragraphs (1) and (2) of subdivision (l) of section 30-3.2 of the Rules of the Board of Regents is amended to read as follows:

(1) for annual professional performance reviews conducted prior to the [2022-23] 2024-2025 school year, the Educational Leadership Policy Standards: ISLLC 2008 as adopted by the National Policy Board for Educational Administration (Council of Chief State School Officers, Washington DC, One Massachusetts Avenue, NW, Suite 700, Washington, DC 20001-1431; available at the Office of Counsel, State Education Department, State Education Building, Room 148, 89 Washington Avenue, Albany, NY 12234). The Leadership Standards provide that an education leader promotes the success of every student by:

(2) for annual professional performance reviews conducted commencing in the [2022-23] 2024-2025 school year, the Professional Standards for Educational Leaders: PSEL 2015 as adopted by the National Policy Board for Educational Administration (1904 Association Drive, Reston, VA 20191 -- available at the Office of Counsel, State Education Department, State Education Building, Room 148, 89 Washington Avenue, Albany, NY 12234), as modified by the Board of Regents. The New York State Leadership Standards provide that an education leader shall:

**This notice is intended:** to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire March 16, 2021.

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, NYS Education Department, Office of Counsel, 89 Washington Avenue, Room 148EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

**Data, views or arguments may be submitted to:** Julia Patane, NYS Education Department, Office of Counsel, 89 Washington Avenue, Room 148EB, Albany, NY 12234, (518) 474-6400, email: REGCOMMENTS@nysed.gov

**Public comment will be received until:** 60 days after publication of this notice.

**This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.**

#### Regulatory Impact Statement

##### 1. STATUTORY AUTHORITY:

Education Law § 101 continues existence of Education Department, with Board of Regents as its head, and authorizes Regents to appoint Commissioner of Education as Department's Chief Administrative Officer, which is charged with general management and supervision of all public schools and educational work of State.

Education Law § 207 empowers Regents and Commissioner to adopt



rules and regulations to carry out State education laws and functions and duties conferred on the Department.

Education Law § 210 conferred by the Regents to students who satisfactorily pass such examinations.

Education Law § 215 empowers the Regents and the Commissioner to visit, examine into and inspect, any institution in the University and any school or institution under the educational supervision of the State and may require reports therefrom giving information as the Regents or the Commissioner prescribe.

Education Law § 305 establishes the general powers and duties of the Commissioner of Education.

Education Law § 803 requires instruction in physical education in all elementary and secondary schools for all pupils above the age of eight.

Education Law § 911 requires the Commissioner to enforce the provisions of law relating to medical and health services to be provided by schools.

Education Law § 3001 prescribes the qualifications of teachers.

Education Law § 3004 directs the Commissioner of Education to prescribe regulations governing the examination and certification of teachers employed in all public schools of the State.

Education Law § 3009 provides that unqualified teachers shall not be paid from school moneys.

Education Law § 3012-d provides for the development and implementation of annual professional performance reviews of teachers and principals.

## 2. LEGISLATIVE OBJECTIVES:

The proposed amendments are consistent with the above statutory authority and are necessary to address numerous issues resulting from the interruptions caused by the COVID-19 crisis and to prepare for the reopening of schools. The purpose of the proposed amendment is to provide flexibility for certain regulatory requirements in response to the COVID-19 crisis and to prepare for the reopening of schools.

## 3. NEEDS AND BENEFITS:

On January 30, 2020, the World Health Organization designated the novel coronavirus, COVID-19, outbreak as a Public Health Emergency of International Concern. On March 7, 2020, the Governor of New York State declared a State disaster emergency for the entire State of New York pursuant to Executive Order 202. Subsequently, the Governor issued additional Executive Orders in response to the COVID-19 crisis, including orders directing the closure of schools for the remainder of the 2019-2020 school year and 2020 summer school except for extended school year (ESY) services. In response, the Department adopted emergency regulations at the April, May, June, July, and September 2020 Board of Regents meetings to address numerous issues resulting from the interruptions caused by the COVID-19 crisis. The Governor of New York announced that schools across the State are permitted to open in the fall and required all school districts to submit reopening plans to the Department and the Department of Health. Therefore, to address additional issues resulting from the interruptions caused by the COVID-19 crisis, and to plan for the reopening of schools, the Department is proposing further emergency regulatory amendments as follows:

### • Early Learning

o Section 125.1 is amended to provide that any voluntarily registered school whose registration expires in the 2019-2020 or 2020-2021 school year, and does not receive a required on-site visit from Department staff due to the COVID-19 crisis shall have their registration extended, subject to revocation for cause, and such registration shall be up for renewal in the 2021-2022 school year.

### • Higher Education

#### o Coaching Evaluations

■ Section 135.4(c) of the Commissioner's regulations is amended to provide additional flexibility for temporary coaching candidates of extracurricular interscholastic sports. These candidates are required to receive a satisfactory evaluation by the principal or athletic director for each of the preceding three years that they coached in the sport for which a professional coaching certificate is sought. The Department permanently adopted amendments to such section at the September 2020 Regents meeting, which provided that such candidates who held a temporary coaching certificate for the winter 2019-2020 and/or spring 2020 sports season did not have to have receive an evaluation by the principal or athletic director for such sports seasons for professional coaching certification due to the COVID-19 crisis. The Department is now proposing to expand the time period during which such candidates are not required to receive an evaluation for professional coaching certification to also include the fall 2020, winter 2020-2021, and/or spring 2021 sports seasons.

o School Building Leader Programs and Annual Professional Performance Reviews (APPR)

■ At its December 2017 meeting, the Board of Regents approved requiring school building leader (SBL) programs, that are registered or seek registration on or after December 1, 2020, to be aligned with the Professional Standards for Educational Leaders (PSELs), with some

modifications. Programs have been aligned with the Interstate School Leaders Licensure Consortium (ISLLC) Standards. The Department is proposing to amend section 52.21(c) of the Commissioner's regulations to extend the date by which SBL programs must be aligned with the new PSELs until September 1, 2022 to provide SBL programs additional time to conform with the new standards due to the COVID-19 crisis.

■ Additionally, the Department is proposing to make a corresponding amendment to section 30-3.2(l) of the Commissioner's regulations to provide that the definition of "Leadership standards" for purposes of APPR reviews shall mean the new PSELs for reviews conducted on and after the 2024-2025 school year. This amendment aligns the date by which SBL programs must adopt such standards with the date such standards will be used in conducting APPR reviews.

## 4. COSTS:

a. Costs to State government: The amendments do not impose any costs on State government.

b. Costs to local government: The amendments do not impose any costs on local government.

c. Costs to private regulated parties: The amendments do not impose any costs on private regulated parties.

d. Cost to the regulatory agency: There are no additional costs to the State Education Department.

## 5. LOCAL GOVERNMENT MANDATES:

The proposed amendment does not impose any additional program, service, duty or responsibility upon any local government.

## 6. PAPERWORK:

The proposed amendment does not impose any additional paperwork requirements.

## 7. DUPLICATION:

The proposed amendment does not duplicate existing State or Federal requirements.

## 8. ALTERNATIVES:

The proposed amendments are necessary to provide flexibility for certain regulatory requirements in response to the COVID-19 crisis and to plan for the reopening of schools. There are no significant alternatives to the proposed amendment and none were considered.

## 9. FEDERAL STANDARDS:

There are no applicable Federal standards.

## 10. COMPLIANCE SCHEDULE:

It is anticipated that regulated parties will be able to comply with the proposed amendment by the effective date.

## Regulatory Flexibility Analysis

### (a) Small businesses:

The proposed rule relates to providing flexibility for certain regulatory requirements in response to the COVID-19 crisis. The proposed amendments do not impose any adverse economic impact, reporting, recordkeeping or any other compliance requirements on small businesses. Because it is evident from the nature of the proposed amendments that they do not affect small businesses, no further measures were needed to ascertain that fact, and none were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required and one has not been prepared.

### (b) Local governments:

#### 1. EFFECT OF RULE:

The purpose of the proposed amendments is to provide flexibility for certain regulatory requirements in response to the COVID-19 crisis. The proposed amendments apply to each of the 695 public school districts in the State.

#### 2. COMPLIANCE REQUIREMENTS:

On January 30, 2020, the World Health Organization designated the novel coronavirus, COVID-19, outbreak as a Public Health Emergency of International Concern. On March 7, 2020, the Governor of New York State declared a State disaster emergency for the entire State of New York pursuant to Executive Order 202. Subsequently, the Governor issued additional Executive Orders in response to the COVID-19 crisis, including orders directing the closure of schools for the remainder of the 2019-2020 school year and 2020 summer school except for extended school year (ESY) services. In response, the Department adopted emergency regulations at the April, May, June, July, and September 2020 Board of Regents meetings to address numerous issues resulting from the interruptions caused by the COVID-19 crisis. The Governor of New York announced that schools across the State are permitted to open in the fall and required all school districts to submit reopening plans to the Department and the Department of Health. To address additional issues resulting from the interruptions caused by the COVID-19 crisis, the Department is proposing further emergency regulatory amendments providing flexibility related to the following:

• Registration of voluntarily registered nursery schools and kindergartens;

• School Building Leader (SBL) programs;

• Annual professional performance reviews (APPR); and

- Coaching evaluations.
- 3. PROFESSIONAL SERVICES:  
The proposed amendment does not impose any additional professional services requirements on local governments.
- 4. COMPLIANCE COSTS:  
The proposed amendment will not impose any additional program, service, duty, responsibility or costs beyond those imposed by statute.
- 5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:  
The proposed rule does not impose any additional costs or technological requirements on local governments.
- 6. MINIMIZING ADVERSE IMPACT:  
The proposed amendments are necessary to provide flexibility for certain regulatory requirements in response to the COVID-19 crisis. Accordingly, no alternatives were considered.
- 7. LOCAL GOVERNMENT PARTICIPATION:  
Comments on the proposed rule were solicited from school districts through the offices of the district superintendents of each supervisory district in the State and from the chief school officers of the five big city school districts.

#### Rural Area Flexibility Analysis

On January 30, 2020, the World Health Organization designated the novel coronavirus, COVID-19, outbreak as a Public Health Emergency of International Concern. On March 7, 2020, the Governor of New York State declared a State disaster emergency for the entire State of New York pursuant to Executive Order 202. Subsequently, the Governor issued additional Executive Orders in response to the COVID-19 crisis, including orders directing the closure of schools for the remainder of the 2019-2020 school year and 2020 summer school except for extended school year (ESY) services. In response, the Department adopted emergency regulations at the April, May, June, July, and September 2020 Board of Regents meetings to address numerous issues resulting from the interruptions caused by the COVID-19 crisis. The Governor of New York announced that schools across the State are permitted to open in the fall and required all school districts to submit reopening plans to the Department and the Department of Health. To address additional issues resulting from the interruptions caused by the COVID-19 crisis, the Department is proposing further emergency regulatory amendments providing flexibility related to the following:

- Registration of voluntarily registered nursery schools and kindergartens;
- School Building Leader (SBL) programs;
- Annual professional performance reviews (APPR); and
- Coaching evaluations.

The proposed amendment provides flexibility for certain regulatory requirements during the COVID-19 crisis and plans for the reopening of schools. Thus, the proposed amendment does not adversely impact entities in rural areas of New York State. Accordingly, no further steps were needed to ascertain the impact of the proposed amendment on entities in rural areas and none were taken. Thus, a rural flexibility analysis is not required and one has not been prepared.

#### Job Impact Statement

The purpose of the proposed amendments is to provide flexibility for certain regulatory requirements in response to the COVID-19 crisis and to plan for the reopening of schools. The proposed amendment provides flexibility related to the following:

- Registration of voluntarily registered nursery schools and kindergartens;
- School Building Leader (SBL) programs;
- Annual professional performance reviews (APPR); and
- Coaching evaluations.

Because it is evident from the nature of the proposed amendment that it will have no impact on the number of jobs or employment opportunities in New York State, no further steps were needed to ascertain that fact and none were taken.

### NOTICE OF ADOPTION

#### Creating a Transitional J Certificate for Military Spouses

**I.D. No.** EDU-30-20-00002-A

**Filing No.** 914

**Filing Date:** 2020-12-17

**Effective Date:** 2021-01-06

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of section 80-5.28 to Title 8 NYCRR.

**Statutory authority:** Education Law, sections 207, 305, 3001, 3003, 3004 and 3009

**Subject:** Creating a transitional J Certificate for Military Spouses.

**Purpose:** To create a Transitional J certificate for spouses of individuals on full-time active duty with the Armed Forces.

**Text or summary was published** in the July 29, 2020 issue of the Register, I.D. No. EDU-30-20-00002-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, NYS Education Department, Office of Counsel, 89 Washington Avenue, Room 112EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

#### Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2023, which is no later than the 3rd year after the year in which this rule is being adopted.

#### Assessment of Public Comment

The agency received no public comment.

### NOTICE OF ADOPTION

#### Creating Safety Nets for the Arts Content Specialty Tests (CSTs)

**I.D. No.** EDU-30-20-00003-A

**Filing No.** 913

**Filing Date:** 2020-12-17

**Effective Date:** 2021-01-06

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of section 80-1.5(c) of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 207, 305, 3001, 3003, 3004 and 3009

**Subject:** Creating Safety Nets for the Arts Content Specialty Tests (CSTs).

**Purpose:** To create a safety net for the Arts Content Specialty Tests (CSTs).

**Text or summary was published** in the July 29, 2020 issue of the Register, I.D. No. EDU-30-20-00003-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, NYS Education Department, Office of Counsel, 89 Washington Avenue, Room 112EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

#### Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2023, which is no later than the 3rd year after the year in which this rule is being adopted.

#### Assessment of Public Comment

The agency received no public comment.

### REVISED RULE MAKING NO HEARING(S) SCHEDULED

#### Special Education Impartial Hearing Officers and the Special Education Due Process System Procedures

**I.D. No.** EDU-11-20-00013-RP

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following revised rule:

**Proposed Action:** Amendment of sections 200.1, 200.5 of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 101, 207, 305, 3214, 4403, 4404 and 4410

**Subject:** Special Education Impartial Hearing Officers and the Special Education Due Process System Procedures.

**Purpose:** To address volume of special education due process complaints in the New York City due process system.

**Text of revised rule:** 1. Paragraph (1) of subdivision (x) of section 200.1 of the Regulations of the Commissioner of Education is amended to read as follows:

(1) be an individual admitted to the practice of law [in the State of New York] who is currently in good standing and who has a minimum of [two years] one year of practice and/or experience in the areas of education, special education, disability rights [or], civil rights or administrative law; or be an individual certified by the State of New York as an impartial hearing officer on September 1, 2001;



2. Paragraph (2) of subdivision (e) of section 200.5 of the Regulations of the Commissioner of Education is amended to read as follows:

(2) Each public school, public agency [and], approved private school, *and impartial hearing officer* subject to the provisions of this Part shall preserve the confidentiality of personally identifiable data, information or records pertaining to students with disabilities. Such confidentiality must be preserved in a manner consistent with the procedures adopted pursuant to section 200.2(b)(6) of this Part and/or in accordance with 20 USC 1232(g) and the provisions of part 99 of title 34 of the Code of Federal Regulations or its successor and sections 300.610 through 300.625. (United States Code, 2006 edition, volume 12, 2008; Superintendent of Documents, U.S. Government Printing Office, Stop SSOP, Washington, DC 20402-9328; 2004; Code of Federal Regulations, 2009 edition, title 34, part 99, Superintendent of Documents, U.S. Government Printing Office, Stop SSOP, Washington, DC 20402-0001; Code of Federal Regulations, 2009 edition, title 34, sections 300.610-300.625, Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-0001; 2009 - available at the Office of Counsel, New York State Education Department, State Education Building, Room 148, 89 Washington Avenue, Albany, NY 12234).

3. Clause (c) of subparagraph (xii) of paragraph (3) of subdivision (j) of section 200.5 of the Regulations of the Commissioner of Education is amended to read as follows:

(c) The impartial hearing officer may receive any oral, documentary or tangible evidence except that the impartial hearing officer shall exclude evidence that he or she determines to be irrelevant, immaterial, unreliable or unduly repetitious. The impartial hearing officer may receive testimony by telephone *or video conference*, provided that such testimony shall be made under oath and shall be subject to cross examination.

4. Subparagraph (xii) of paragraph (3) of subdivision (j) of section 200.5 of the Regulations of the Commissioner of Education is amended by adding a new clause (i) to read as follows:

(i) *The impartial hearing officer may conduct the impartial hearing by video conference or teleconference with consent of the parent which may be obtained at a pre-hearing conference, or at a minimum of 10 days before the scheduled hearing date, provided that all personally identifiable data, information or records pertaining to students with disabilities during such hearing shall be subject to the requirements of section 200.5(e)(2) of this Part.*

5. The opening paragraph of paragraph (5) of subdivision (j) of section 200.5 of the Regulations of the Commissioner of Education are amended to read as follows:

(5) Timeline to render a decision. Except as provided in section 200.16(h)(9) of this Part and section 201.11 of this Title, if a school district files the due process complaint, the impartial hearing officer shall render a decision and mail a copy of the written, or at the option of the parents, electronic findings of fact and the decision to the parents and to the board of education not later than 45 days from the day after the public agency's due process complaint is received by the other party and the State Education Department. Except as provided in section 200.16(h)(9) of this Part and section 201.11 of this Title, if the parent files the due process complaint notice, the decision is due not later than 45 days from the day after one of the following events, whichever shall occur first: (a) both parties agree in writing to waive the resolution meeting; (b) after either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible; (c) if both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or public agency withdraws from the mediation process; or (d) the expiration of the 30-day resolution period. In cases where extensions of time have been granted beyond the applicable required timelines, the decision must be rendered and mailed no later than 14 days from the date the impartial hearing officer closes the record. The date the record is closed shall be indicated in the decision. *Whether the parent or school district filed the due process complaint, the impartial hearing officer shall render a decision in a format consistent with State Education Department guidelines wherein all personally identifiable data, information or records pertaining to students with disabilities shall be subject to the requirements of section 200.5(e)(2) of this Part.* After a final decision has been rendered, the impartial hearing officer shall promptly transmit the record to the school district together with a certification of the materials included in the record. The record of the hearing and the findings of fact and the decision shall be provided at no cost to the parents. Within 15 days of mailing the decision to the parties, the impartial hearing officer shall submit the decision to the Office of Special Education of the State Education Department. All personally identifiable information, in accordance with the guidelines provided by the commissioner, shall be deleted from the copy forwarded to the Office of Special Education.

**Revised rule making(s) were previously published in the State Register on July 29, 2020.**

**Revised rule compared with proposed rule:** Substantial revisions were made in sections 200.1 and 200.5(j)(3).

**Text of revised proposed rule and any required statements and analyses may be obtained from** Kirti Goswami, NYS Education Department, Office of Counsel, 89 Washington Ave, Room 112EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

**Data, views or arguments may be submitted to:** Christopher Suriano, Office of Special Education, NYS Education Department, 89 Washington Avenue, 301M EB, Albany, NY 12234, (517) 473-6119, email: REGCOMMENTS@nysed.gov

**Public comment will be received until:** 45 days after publication of this notice.

#### Revised Regulatory Impact Statement

Since publication of a Notice of Revised Rule Making in the State Register on July 29, 2020, substantial revisions were made to the proposed rule. The Department revised the proposed amendment to section 200.1 of the Regulations of the Commissioner to remove the provision allowing for the certification of non-attorney IHOs in New York City. Additionally, the Department revised the proposed amendment to section 200.5(j)(3)(xii) of the Regulations of the Commissioner to reflect that, in accordance with 34 CFR § 300.515(d) and section 200.5(j)(x) of the Regulations of the Commissioner, only the parent need consent to hold a hearing by video or teleconference. Further, such amendment was revised to clarify that such consent may be obtained at a pre-hearing conference, rather than the pre-hearing conference, as pre-hearing conferences are not required.

#### 1. STATUTORY AUTHORITY:

Education Law § 101 (not subdivided) charges the Department with the general management and supervision of all public schools and of all the educational work of the state.

Education Law § 207 (not subdivided) grants general rule-making authority to the Regents to carry into effect State educational laws and policies.

Education Law § 305(1) authorizes the Commissioner to enforce laws relating to the State educational system and execute Regents educational policies. Section 305(2) provides the Commissioner with general supervision over schools and authority to advise and guide school district officers in their duties and the general management of their schools.

Education Law § 3214(3)(g) establishes the authority of an impartial hearing officer relating to a change in placement to interim alternative educational settings.

Education Law § 4403 outlines the Department's responsibilities regarding special education programs and services to students with disabilities. Section 4403(3) authorizes the Department to adopt regulations as the Commissioner deems in their best interest.

Education Law § 4404 establishes the appeal procedures for students with disabilities. Subdivision (1) authorizes and requires the Commissioner to promulgate regulations relating to the qualifications, procedures and timelines for impartial hearings, as well as procedures for the suspension or revocation of impartial hearing officer certification for good cause.

Education Law § 4410(7) provides that a parent may file a written request with the board of education for an impartial hearing with respect to any matter relating to the identification, evaluation or educational placement of, or provision of a free appropriate public education to preschool students with disabilities. Subdivision (14) authorizes the Commissioner to adopt regulations to implement the such statute.

#### 2. LEGISLATIVE OBJECTIVES:

Consistent with the above statutory authority, the purpose of the proposed amendments are to: (1) expand the pool of potential impartial hearing officer (IHO) applicants in New York City by removing the restriction that all IHO attorney candidates be licensed in New York State; (2) ensure that IHOs maintain student confidentiality of students' personally identifiable information and render decisions in a format consistent with NYSED guidelines that comply with the Family Educational Rights and Privacy Act; and (3) permit IHOs to receive testimony by video conference, and to conduct hearings by video conference.

#### 3. NEEDS AND BENEFITS:

In January 2020, the Board of Regents was presented with a discussion item regarding expanding the pool of applicants of Impartial Hearing Officers (IHOs) to hear special education due process complaints filed in New York City. A presentation by the New York State Education Department's (NYSED's) Office of Special Education's (OSE) consultant, Deusedi Merced from Special Education Solutions, LLC, provided data on the number of due process complaints filed in New York State compared to the rest of the country. New York exceeds by 63 percent the next most active state (California) with due process complaint filings.

Additionally, within New York State, the overwhelming majority of due process complaints are filed in New York City. In the 2018-2019 school year, 10,189 special education due process complaints were filed in New York State; of these, 9,694 filings, or 95 percent, were in New York City. That amount is expected to increase during the 2019-2020 school year. This unprecedented volume of special education due process complaints is overwhelming the New York City due process system.

NYSED is proposing certain regulatory changes to expand the pool of IHO applicants in New York City and to clarify certain IHO duties and responsibilities. Many of these additional changes were listed in the January 2020 Regents item as possible amendments to address deficiencies in the hearing process that might help alleviate some of the pressure on the New York City Department of Education's special education due process system.

Expanding the Pool of Potential IHO Applicants in New York City

In accordance with the Individuals with Disabilities Education Act (IDEA), all IHOs must be held to a standard of appropriate legal practice when presiding over and rendering decisions in special education due process hearings. However, as discussed at the January 2020 Board of Regents meeting, New York State's current requirements for IHOs far exceed those required by IDEA to address the unprecedented number of open special education due process complaints in New York City.

1) Widening the Pool of Attorney IHO Candidates to Become IHOs:

NYSED proposes to amend section 200.1(x) of the Regulations of the Commissioner of Education to remove the restriction that all IHO attorney candidates be licensed in New York State, thereby providing for the certification of qualified candidates from neighboring states. These candidates must be in good standing in their licensed state. The amendment would further expand the areas of relevant law practice and experience for attorney candidates to better align with the requirements of IDEA by eliminating reference to civil rights law and more appropriately including reference to include experience in administrative law. The proposed amendment would also reduce the number of years of experience and/or practice for attorney candidates from two years to one year. While these proposed changes may widen the pool of applicant IHOs, it is important to note that when seeking a new cohort of IHOs for certification, NYSED seeks resumes, an extensive application, a writing sample, and three references, as well as conducting interviews of candidates, before inviting the applicant to attend a rigorous five-day training program. In other words, IHO candidates are rigorously vetted.

Privacy

1) IHOs must maintain student confidentiality:

NYSED proposes to amend section 200.5(e) of the Regulations of the Commissioner of Education to add IHOs to this section listing out who is required to maintain confidentiality of students' personally identifiable information.

2) IHOs must render decisions in a consistent format:

Additionally, and in accordance with section 200.5(e), NYSED proposes to amend section 200.5(j) requiring IHOs to render decisions in a format consistent with NYSED guidelines that comply with the Family Educational Rights and Privacy Act (FERPA). This requirement will eliminate the need for local educational agencies or NYSED to have to redact decisions so that they comply with FERPA before making the decisions publicly available as required by IDEA.

Use of Video Conference

1) IHOs may receive testimony by video conference:

The regulations currently allow IHOs to receive testimony by telephone. NYSED proposes amending section 200.5(j)(3)(xii)(c) of the Regulations of the Commissioner of Education to allow IHOs to receive testimony via video conference to better accommodate needed witnesses, provided that such testimony shall be made under oath and shall be subject to cross-examination.

2) IHOs may conduct hearings by teleconference or video conference:

To address concerns of the more than 10,000 due process cases in New York City, NYSED proposes to add clause (h) to section 200.5(j)(3)(xii) to allow an IHO to conduct hearings by teleconference or video conference with the consent of parties so long as all personally identifiable data, information, or records pertaining to students with disabilities during such hearing is subject to section 200.5(e), pertaining to privacy, described above.

4. COSTS:

(a) Costs to State government: There are no additional costs to State government beyond those inherent in statute.

(b) Costs to local government: There are no additional costs to local government beyond those inherent in statute.

(c) Cost to private regulated parties: There are no additional costs to private regulated parties.

(d) Cost to the regulatory agency: There are no additional costs to the State Education Department.

5. LOCAL GOVERNMENT MANDATES:

The proposed amendment expands the pool of IHO applicants in New York City and clarifies certain IHO duties and responsibilities and does not impose any program, service, duty or responsibility upon any county, city, town, village, school district, fire district or other special district.

6. PAPERWORK: The proposed amendment does not impose any reporting or other paperwork requirements.

7. DUPLICATION:

The proposed amendment does not duplicate any other existing State or federal requirements.

8. ALTERNATIVES:

The proposed amendment is necessary to address the deficiencies in the impartial hearing process and clarifying certain IHO duties and responsibilities. There were no significant alternatives and none were considered.

9. FEDERAL STANDARDS:

There are no applicable Federal standards.

10. COMPLIANCE SCHEDULE:

It is anticipated that the revised proposed amendment will be presented for permanent adoption at the March 2021 Regents meeting, after publication of the revised proposed amendment in the State Register and expiration of the 45-day public comment period required under the State Administrative Procedure Act for revised rulemaking. If adopted at the March 2021 meeting, the revised proposed rule will become effective on March 31, 2021.

#### *Revised Regulatory Flexibility Analysis*

Since publication of Notice of Revised Rule Making was published in the State Register on July 29, 2020, substantial revisions were made to the proposed rule. The Department revised the proposed amendment to section 200.1 of the Regulations of the Commissioner to remove the provision allowing for the certification of non-attorney IHOs in New York City. Additionally, the Department revised the proposed amendment to section 200.5(j)(3)(xii) of the Regulations of the Commissioner to reflect that, in accordance with 34 CFR § 300.515(d) and section 200.5(j)(x) of the Regulations of the Commissioner, only the parent need consent to hold a hearing by video or teleconference. Further, such amendment was revised to clarify that such consent may be held at a pre-hearing conference, rather than the pre-hearing conference, as pre-hearing conferences are not required.

These substantial revisions do not require any changes to the previously published Regulatory Flexibility Analysis for Small Businesses and Local Government.

#### *Revised Rural Area Flexibility Analysis*

Since publication of a Notice of Revised Rule Making in the State Register on July 29, 2020, substantial revisions were made to the proposed rule. The Department revised the proposed amendment to section 200.1 of the Regulations of the Commissioner to remove the provision allowing for the certification of non-attorney IHOs in New York City. Additionally, the Department revised the proposed amendment to section 200.5(j)(3)(xii) of the Regulations of the Commissioner to reflect that, in accordance with 34 CFR § 300.515(d) and section 200.5(j)(x) of the Regulations of the Commissioner, only the parent need consent to hold a hearing by video or teleconference. Further, such amendment was revised to clarify that such consent may be held at a pre-hearing conference, rather than the pre-hearing conference, as pre-hearing conferences are not required.

1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:

The proposed amendment applies to certification of impartial hearing officers (IHOs) who conduct special education impartial hearings where the district or a parent initiates a due process complaint at any public school located in New York State, including those located in the 44 rural counties with less than 200,000 inhabitants and the 71 towns in urban counties with a population density of 150 per square mile or less.

2. REPORTING, RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS; AND PROFESSIONAL SERVICES:

The proposed amendment does not impose any additional compliance requirements or professional services requirements on entities in rural areas.

The proposed amendments would: (1) expand the pool of potential impartial hearing officer (IHO) applicants in New York City by removing the restriction that all IHO attorney candidates be licensed in New York; (2) ensure that IHOs maintain student confidentiality of students' personally identifiable information and render decisions in a format consistent with NYSED guidelines that comply with the Family Educational Rights and Privacy Act; and (3) permit IHOs to receive testimony by video conference, and to conduct hearings by video conference or teleconference.

3. COMPLIANCE COSTS:

The proposed amendment does not impose any additional costs on entities in rural areas.

4. MINIMIZING ADVERSE IMPACT:

The proposed amendment is necessary to address the unprecedented volume of special education due process complaints in the New York City due process system by expanding the pool of IHO applicants in New York City. The proposed amendment is also necessary to clarify certain IHO duties and responsibilities. Therefore, no alternatives were considered for those located in rural areas of the State.

5. RURAL AREA PARTICIPATION:

Three public hearings were conducted to obtain comment on the



proposed amendments. In addition, the proposed amendment was submitted for comment to school districts through the offices of the district superintendents of each supervisory district in the State including those in rural areas.

#### **Revised Job Impact Statement**

The proposed rule expands the pool of impartial hearing officer (IHO) applicants to hear special education due process complaints filed in New York City and clarifies certain IHO duties and responsibilities. The proposed amendment will not have a substantial impact on jobs and employment opportunities. Because it is evident from the nature of the proposed amendment that it will have no impact on jobs or employment opportunities attributable to its adoption or only a positive impact, no affirmative steps were needed to ascertain these facts and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

#### **Assessment of Public Comment**

Since publication of a Notice of Revised Rule Making in the State Register on July 29, 2020, the State Education Department (SED or the Department) received the following comments.

Allowing for Certification of Non-Attorney Impartial Hearing Officers (IHO) in New York City (NYC)

##### **1. COMMENT:**

Numerous commenters opposed certification and use of non-attorney IHOs indicating that:

- Non-attorneys do not have training or expertise required to conduct research and effectively understand, interpret, and apply federal and State law to cases, run a hearing in accordance with standard legal practice and tackle complex legal issues; will not be able to interpret the legislative intent of the Individuals with Disabilities Education Act (IDEA) and analyze complex body of law; do not have requisite knowledge and skills to adjudicate special education claim;
- Necessary skills cannot be learned in a brief “turn-key” training;
- Difficult to ascertain how a typical layperson who has not completed law school would be able to fulfill the mandates of 20 U.S.C. § 1415(f)(3)(A)(i)-(iv) which requires knowledge and ability to understand federal and State regulation, legal interpretations and court decisions regarding IDEA, conduct hearings and possess knowledge and render and write decisions in accordance with appropriate, standard legal practice;
- IDEA also requires an understanding of federal and State law, rules of evidence and how to apply applicable case law; non-lawyers cannot meet these requirements;
- IDEA uses the term “standard legal practice” requirement; non-lawyers cannot meet IDEA requirements;
- Due to legal complexity, attorneys are required to adjudicate special education due process hearings to ensure that legal procedures are properly followed, and the law is correctly applied;
- Someone with experience interpreting law must be the person who is ruling at hearings;
- Decision will result in IHOs who do not have the requisite knowledge and skills to adjudicate special education claims;
- Background in psychology, special education, or education administration may be qualification for service as a school psychologist, special education teacher or school administrator - such education and experience are not per se qualifications for service as an administrative law judge;
- No one would presume that a lawyer could step into the role of a clinician or educator, why is the reverse acceptable;
- Cases heard by non-attorney IHOs could contribute to increased appeals to a State Review Officer and federal court;
- Assigning non-attorney IHOs exclusively to NYC is indefensible;
- Proposal will prolong the already lengthy road to resolution; parents of students with disabilities have already suffered due to delays at the Office of State Review;
- Other State agencies find well-qualified attorneys to serve as hearing officers in their administrative tribunals, SED should be able to also;
- Proposal is disparate compared to the rest of the State which would have IHOs that are attorneys;
- Proposal would result in students and litigants in NYC having IHOs who are less qualified than IHOs hearing cases in the rest of New York State (NYS);
- This is a change in SED’s position from 2001 when it stated that it had concerns that non-attorneys did not have the requisite skills and expertise; hearings are even more complex than in 2001;
- NYS abandoned using non-attorneys in 2001, SED is reversing a well-reasoned policy that NYSED put in place more than 20 years ago without justification;
- Change would be inconsistent with nationwide trend (42 states require attorney IHOs);
- Bringing back a failed policy as a solution to a problem in NYC is a disservice to parents and vulnerable children;

- Negative effects of certifying non-attorney IHOs will disproportionately impact low-income families and communities of color;
- Proposal creates a two-tiered system of educational justice and will result in de facto racial segregation and educational inequality;
- Proposal invites significant bias into the impartial hearing process;
- COVID-19 demonstrates that hearings can be held remotely, there is no need to establish watered-down qualifications;
- Courts give deference to IHO decisions, this will dilute the nature of the process;
- Pro-se parents would be reliant on IHOs to guide them through the legal processes;
- Non-lawyers are not bound by the rules of professional conduct; and
- Non-lawyers are not subject to continuing legal education.

##### **DEPARTMENT RESPONSE:**

The Department has considered the multitudinous comments received regarding the proposal to certify non-attorneys as IHOs in NYC and determined, after much forethought, to revise its proposed amendment and remove this provision.

##### **2. COMMENT:**

Dismayed that SED has failed to respond to overwhelming public comment in opposition to the proposed regulation permitting non-attorneys to serve as IHOs. The response SED published in the July 29, 2020 NYS Register merely stated that the “Department is currently reviewing these comments.”

##### **DEPARTMENT RESPONSE:**

See response to Comment 1. The Department has determined that it will withdraw its proposal to have non-attorneys certified to become IHOs in NYC.

##### **3. COMMENT:**

Agree that the State and NYC must take urgent action and appreciate SED’s recognition of the need to address the delays in impartial hearings; however, NYS must still have IHOs that are attorneys so that law is correctly applied.

##### **DEPARTMENT RESPONSE:**

See response to Comment 1. The Department has determined that it will withdraw its proposal to have non-attorneys certified to become IHOs in NYC.

##### **4. COMMENT:**

Any system wherein non-attorney IHOs are assigned “simpler” cases or would receive the same compensation as attorney IHOs is problematic. A system where non-attorney IHOs handle certain cases would violate the rotation system requirements.

##### **DEPARTMENT RESPONSE:**

See response to Comment 1. The Department has determined that it will withdraw its proposal to have non-attorneys certified to become IHOs in NYC.

##### **5. COMMENT:**

Proposal does not address inadequate compensation of IHOs. Problem with system is that IHOs have to get paid better.

##### **DEPARTMENT RESPONSE:**

Comments regarding NYC IHO Compensation policy are beyond scope of rule.

##### **6. COMMENT:**

Backlog does not justify resorting to non-attorney IHOs. Returning to already failed policy does not address underlying causes of problems. Proposal to allow certification of non-attorneys does not address the problem at its source – the New York City Department of Education’s (DOE) widespread inability to provide appropriate evaluations, individualized education programs, services and placements to all children with disabilities. SED should explore other solutions. Suggest adding impartial personnel to facilitate meaningful resolution periods, resolve cases where the DOE has no defense; pay for the parents’ provider where the DOE has failed to find one; get DOE to timely complete its investigations. Endorse radical change throughout the system to streamline the process and cut down on the number of cases every year. Compliance assurance plan has done nothing as NYS continues to fail to repair the broken educational system.

##### **DEPARTMENT RESPONSE:**

See response to Comment 1. The Department has determined that it will withdraw its proposal to have non-attorneys certified to become IHOs in NYC. The Comprehensive Compliance Assurance Plan addresses numerous systemic failures by NYCDOE pertaining to its implementation of IDEA. The Department agrees that all possible solutions must be explored to reduce the excessive volume of special education due process complaints filed in NYC.

##### **7. COMMENT:**

Proposed amendment was driven by need to expand the pool of certified IHOs. There are better ways to work through the backlog of cases including certifying more attorney IHOs. SED has certified 35 new IHOs who are attorneys and just needs to use more aggressive recruitment efforts. Use attorneys from all over the world. Include entire country because telephone and video are now allowed.

## DEPARTMENT RESPONSE:

The Department's proposed regulations include allowing attorneys from other states to become certified IHOs, and the Department has begun to train attorneys from other states. The Department agrees with the comment that the use of video and telephonic hearings, in combination with certifying attorneys outside of the State of New York, should help to expand the pool of IHOs who may conduct hearings in NYC.

## Use of Video Conference to Receive Testimony and Conduct Hearings

## 8. COMMENT:

Many commenters generally support the use of video conferencing technology in impartial hearings. Videoconferencing could alleviate travel burden for families, lessen space constraints, and allow for scheduling of more meetings in a day. Many commenters also supported the addition of telephonic hearings and pointed out that hearings have been run successfully in NYC in this manner during COVID-19 shut-downs.

## DEPARTMENT RESPONSE:

Comments supportive; therefore, no response needed.

## 9. COMMENT:

The proposed amendment to section 200.5(j)(3)(xii) of the Regulations of the Commissioner which requires both parties to consent to a video or telephonic hearing a minimum of 10 days before the scheduled hearing date will present problems because the NYCDOE often does not respond to emails or communicate before the day of the scheduled hearing. This requirement gives school districts veto power to allowing hearings to take place by video or telephone. Requiring the consent of the parent only is consistent with 8 NYCRR § 200.5(j)(3)(x) which requires that the hearing be conducted at a place convenient to the parent and student. Requiring both parties to consent to a hearing by video or telephone violates 34 CFR § 300.515(d) which states that oral arguments must take place at a time and place that is reasonably convenient to the parents and child.

## DEPARTMENT RESPONSE:

In consideration of several comments received and in conformance with 34 CFR § 300.515(d) and section 200.5(j)(3)(x) of the Regulations of the Commissioner, the Department has revised section 200.5(j)(3)(xii) to reflect that only the parent need to consent to the use of telephonic or video hearings ten days before the hearing.

## REVISED RULE MAKING NO HEARING(S) SCHEDULED

### Creating a Safety Net for the School Building Leader Assessment

**I.D. No.** EDU-30-20-00005-RP

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following revised rule:

**Proposed Action:** Amendment of section 80-1.5(c) of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 207, 305, 3001, 3003, 3004 and 3009

**Subject:** Creating a Safety Net for the School Building Leader Assessment.

**Purpose:** To create a safety net for the School Building Leader Assessment.

**Text of revised rule:** Subparagraph (vii) of paragraph (2) of subdivision (c) of section 80-1.5 of the Regulations of the Commissioner of Education shall be added to read as follows:

*(vii) When the revised (May 2019) school building leader assessment becomes available, a candidate may take part one of either the revised (May 2019) school building leader assessment or the revised (September 2013) school building leader assessment, and may take part two of either the revised (May 2019) school building leader assessment or the revised (September 2013) school building leader assessment, until August 31, 2024.*

**Revised rule compared with proposed rule:** Substantial revisions were made in section 80-1.5(c)(2).

**Text of revised proposed rule and any required statements and analyses may be obtained from** Kirti Goswami, NYS Education Department, Office of Counsel, 89 Washington Avenue, Room 112EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

**Data, views or arguments may be submitted to:** Petra Maxwell, NYS Education Department, Office of Higher Education, 89 Washington Avenue, Room 975EBA, Albany, NY 12234, (518) 474-2238, email: OHEREGComments@nysed.gov

**Public comment will be received until:** 45 days after publication of this notice.

#### Revised Regulatory Impact Statement

Since publication of a Notice of Proposed Rule Making in the State Register on July 29, 2020, substantial revisions were made to the proposed rule. The Department revised the proposed amendments to section 80-

1.5(c)(2)(vii) to extend the deadline for the School Building Leader Assessment safety net. This revision allows candidates to be held harmless during the transition period from the 2013 SBL Assessment to the 2019 SBL Assessment, from the date the 2019 SBL Assessment becomes operational until August 31, 2024. Candidates would be able to take Part One of either the 2019 SBL Assessment or the 2013 SBL Assessment and take Part Two of either the 2019 SBL Assessment or the 2013 SBL Assessment, until August 31, 2024.

## 1. STATUTORY AUTHORITY:

Education Law 101 (not subdivided) charges the Department with the general management and supervision of all public schools and all of the educational work of the state.

Education Law 207 (not subdivided) grants general rule-making authority to the Regents to carry into effect State educational laws and policies.

Education Law 305 authorizes the Commissioner to enforce the educational policies of this State and execute all educational policies determined by the Regents and shall prescribe the licensing of teachers employed in this State.

Education Law 3001 establishes the qualifications of teachers in the classroom.

Education Law 3003 authorizes the Commissioner to issue permanent certificates to school superintendents.

Education Law 3004(1) authorizes the Commissioner to promulgate regulations governing the certification requirements for teachers employed in public schools.

Education Law 3009 prohibits school districts from paying the salary of an unqualified teacher.

## 2. LEGISLATIVE OBJECTIVES:

The Department is proposing to create a safety net for the two-part School Building Leader Assessment that would become effective when the 2019 SBL Assessment becomes operational. When available, a candidate would be able to take Part One of either the 2019 SBL Assessment or the 2013 SBL Assessment and take Part Two of either the 2019 SBL Assessment or the 2013 SBL Assessment, until August 31, 2024.

The proposed safety net allows candidates to be held harmless during the transition period from the 2013 SBL Assessment to the 2019 SBL Assessment, from the date the 2019 SBL Assessment becomes operational until August 31, 2024.

## 3. NEEDS AND BENEFITS:

At its December 2017 meeting, the Board of Regents approved requiring school building leader preparation programs, that are registered or seek registration on or after December 1, 2020, to be aligned with the Professional Standards for Educational Leaders (PSELs), with some modifications. Programs have been aligned with the Interstate School Leaders Licensure Consortium (ISLLC) Standards. As such, the current Revised (September 2013) School Building Leader Assessment ("2013 SBL Assessment") for certification is based on the ISLLC Standards.

The approval of the PSELs prompted the Department to redevelop the 2013 SBL Assessment. Through the test redevelopment process, the test framework and items were redeveloped to ensure that candidates for school building leader certification can demonstrate the knowledge, skills, and abilities reflected in the PSELs.

It is anticipated that the Revised (May 2019) School Building Leader Assessment ("2019 SBL Assessment") will become operational in April 2021. The assessment framework was revised in May 2019 and was made available online for candidates and school building leader preparation programs to assist in the preparation of candidates for the redeveloped assessment.

## 4. COSTS:

a. Costs to State government: The amendment does not impose any costs on State government, including the State Education Department.

b. Costs to local government: The amendment does not impose any costs on local government.

c. Costs to private regulated parties: The amendment does not impose any costs on private regulated parties.

d. Costs to regulating agency for implementation and continued administration: See above.

## 5. LOCAL GOVERNMENT MANDATES:

The proposed amendment does not impose any additional program, service, duty or responsibility upon any local government.

## 6. PAPERWORK:

The proposed amendment does not impose any additional paperwork requirements.

## 7. DUPLICATION:

The proposed amendment does not duplicate existing State or Federal requirements.

## 8. ALTERNATIVES:

Because the State believes that uniform certification standards are required across the State, no alternatives were considered.

## 9. FEDERAL STANDARDS:

There are no applicable Federal standards.

#### 10. COMPLIANCE SCHEDULE:

Following the 45-day public comment period required under the State Administrative Procedure Act for revised rule makings, it is anticipated that the proposed amendment will be presented to the Board of Regents for adoption at its March 2021 meeting. If adopted at the March 2021 meeting, the proposed amendment will become effective on March 31, 2021.

#### *Revised Regulatory Flexibility Analysis*

The purpose of the proposed amendment to Section 80-1.5 of the Regulations of the Commissioner of Education is to create a safety net for the two-part School Building Leader Assessment that would become effective when the 2019 SBL Assessment becomes operational. When available, a candidate would be able to take Part One of either the 2019 SBL Assessment or the 2013 SBL Assessment and take Part Two of either the 2019 SBL Assessment or the 2013 SBL Assessment, until August 31, 2024.

The proposed safety net allows candidates to be held harmless during the transition period from the 2013 SBL Assessment to the 2019 SBL Assessment, from the date the 2019 SBL Assessment becomes operational until August 31, 2024.

At its December 2017 meeting, the Board of Regents approved requiring school building leader preparation programs, that are registered or seek registration on or after December 1, 2020, to be aligned with the Professional Standards for Educational Leaders (PSELs), with some modifications. Programs have been aligned with the Interstate School Leaders Licensure Consortium (ISLLC) Standards. As such, the current Revised (September 2013) School Building Leader Assessment ("2013 SBL Assessment") for certification is based on the ISLLC Standards.

The approval of the PSELs prompted the Department to redevelop the 2013 SBL Assessment. Through the test redevelopment process, the test framework and items were redeveloped to ensure that candidates for school building leader certification can demonstrate the knowledge, skills, and abilities reflected in the PSELs.

It is anticipated that the Revised (May 2019) School Building Leader Assessment ("2019 SBL Assessment") will become operational in April 2021. The assessment framework was revised in May 2019 and was made available online for candidates and school building leader preparation programs to assist in the preparation of candidates for the redeveloped assessment.

The amendment does not impose any new recordkeeping or other compliance requirements and will not have an adverse economic impact on small businesses or local governments. Because it is evident from the nature of the proposed amendment that it does not affect small businesses or local governments, no further steps were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required and one has not been prepared.

#### *Revised Rural Area Flexibility Analysis*

Since publication of a Notice of Proposed Rule Making in the State Register on July 29, 2020, substantial revisions were made to the proposed rule. The Department revised the proposed amendments to section 80-1.5(c)(2)(vii) to extend the deadline for the School Building Leader Assessment safety net. This revision allows candidates to be held harmless during the transition period from the 2013 SBL Assessment to the 2019 SBL Assessment, from the date the 2019 SBL Assessment becomes operational until August 31, 2024. Candidates would be able to take Part One of either the 2019 SBL Assessment or the 2013 SBL Assessment and take Part Two of either the 2019 SBL Assessment or the 2013 SBL Assessment, until August 31, 2024.

#### 1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS:

This proposed amendment applies to all candidates of the School Building Leader (SBL) Assessment, including those located in the 44 rural counties with fewer than 200,000 inhabitants and the 71 towns and urban counties with a population density of 150 square miles or less.

#### 2. REPORTING, RECORDKEEPING, AND OTHER COMPLIANCE REQUIREMENTS; AND PROFESSIONAL SERVICES:

The purpose of the proposed amendment to Section 80-1.5 of the Regulations of the Commissioner of Education is to create a safety net for the two-part School Building Leader Assessment that would become effective when the 2019 SBL Assessment becomes operational. When available, a candidate would be able to take Part One of either the 2019 SBL Assessment or the 2013 SBL Assessment and take Part Two of either the 2019 SBL Assessment or the 2013 SBL Assessment, until August 31, 2024.

The proposed safety net allows candidates to be held harmless during the transition period from the 2013 SBL Assessment to the 2019 SBL Assessment, from the date the 2019 SBL Assessment becomes operational until August 31, 2024.

At its December 2017 meeting, the Board of Regents approved requiring school building leader preparation programs, that are registered or seek registration on or after December 1, 2020, to be aligned with the

Professional Standards for Educational Leaders (PSELs), with some modifications. Programs have been aligned with the Interstate School Leaders Licensure Consortium (ISLLC) Standards. As such, the current Revised (September 2013) School Building Leader Assessment ("2013 SBL Assessment") for certification is based on the ISLLC Standards.

The approval of the PSELs prompted the Department to redevelop the 2013 SBL Assessment. Through the test redevelopment process, the test framework and items were redeveloped to ensure that candidates for school building leader certification can demonstrate the knowledge, skills, and abilities reflected in the PSELs.

It is anticipated that the Revised (May 2019) School Building Leader Assessment ("2019 SBL Assessment") will become operational in April 2021. The assessment framework was revised in May 2019 and was made available online for candidates and school building leader preparation programs to assist in the preparation of candidates for the redeveloped assessment.

#### 3. COSTS:

The proposed amendment does not impose any costs on SBL Assessment candidates and/or the New York State school districts/BOCES who wish to hire them.

#### 4. MINIMIZING ADVERSE IMPACT:

The Department believes that uniform standards for certification must be established across the State. Therefore, no alternatives were considered for those located in rural areas of the State.

#### 5. RURAL AREA PARTICIPATION:

The proposed regulation will have a 45-day public comment period for revised rule makings.

#### *Revised Job Impact Statement*

The purpose of the proposed amendment to Section 80-1.5 of the Regulations of the Commissioner of Education is to create a safety net for the two-part School Building Leader Assessment that would become effective when the 2019 SBL Assessment becomes operational. When available, a candidate would be able to take Part One of either the 2019 SBL Assessment or the 2013 SBL Assessment and take Part Two of either the 2019 SBL Assessment or the 2013 SBL Assessment, until August 31, 2024.

The proposed safety net allows candidates to be held harmless during the transition period from the 2013 SBL Assessment to the 2019 SBL Assessment, from the date the 2019 SBL Assessment becomes operational until August 31, 2024.

At its December 2017 meeting, the Board of Regents approved requiring school building leader preparation programs, that are registered or seek registration on or after December 1, 2020, to be aligned with the Professional Standards for Educational Leaders (PSELs), with some modifications. Programs have been aligned with the Interstate School Leaders Licensure Consortium (ISLLC) Standards. As such, the current Revised (September 2013) School Building Leader Assessment ("2013 SBL Assessment") for certification is based on the ISLLC Standards.

The approval of the PSELs prompted the Department to redevelop the 2013 SBL Assessment. Through the test redevelopment process, the test framework and items were redeveloped to ensure that candidates for school building leader certification can demonstrate the knowledge, skills, and abilities reflected in the PSELs.

It is anticipated that the Revised (May 2019) School Building Leader Assessment ("2019 SBL Assessment") will become operational in April 2021. The assessment framework was revised in May 2019 and was made available online for candidates and school building leader preparation programs to assist in the preparation of candidates for the redeveloped assessment.

Because it is evident from the nature of the proposed amendment that it will have no impact on the number of jobs or employment opportunities in New York State, no further steps were needed to ascertain that fact and none were taken.

#### *Assessment of Public Comment*

The agency received no public comment.

## Department of Environmental Conservation

### PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

#### Regulations Governing Recreational Fishing for Striped Bass

I.D. No. ENV-01-21-00003-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:



**Proposed Action:** Amendment of Parts 10, 19 and 40 of Title 6 NYCRR.

**Statutory authority:** Environmental Conservation Law, sections 11-0303, 11-1521, 13-0105, 13-0339 and 13-0347

**Subject:** Regulations governing recreational fishing for striped bass.

**Purpose:** To require circle hooks when fishing recreationally for striped bass using bait.

**Text of proposed rule:** Part 10 of 6 NYCRR is amended to read as follows:

A new paragraph 10.1(c)(9) is added to read as follows:

(9) *A non-offset circle hook, as defined in 19.1(a)(4) of this Title, is required when fishing for striped bass when using any natural bait, as defined in paragraph 19.1(a)(2) of this Title. Striped bass caught on any other type of hook baited with natural bait must be returned to the water immediately without unnecessary injury.*

Part 19 of 6 NYCRR is amended to read as follows:

A new paragraph 19.1(a)(4) is added to read as follows:

(4) *'Non-offset circle hook' means a fishing hook designed and manufactured so that the point and barb of the hook are not offset from the plane of the shank and bend, and the point is turned perpendicularly back towards the shank to form a circular or oval shape.*

Part 40 of 6 NYCRR is amended to read as follows:

New paragraphs 40.1(a)(11) and (12) are added to read as follows:

(11) *'Natural bait' means all baits which entice or might be ingested or swallowed by fish including, but not limited to, fish (dead or alive), fish eggs, worms, shellfish, crustacea, amphibians (salamanders, frogs and toads), insects (including all stages of development as larvae, pupae, etc.), pork rinds, liver, meat, corn or other vegetable matter, tapioca, candy, cheese, bread and putty or dough-like scented baits.*

(12) *'Non-offset circle hook' means a fishing hook designed and manufactured so that the point and barb of the hook are not offset from the plane of the shank and bend, and the point is turned perpendicularly back towards the shank to form a circular or oval shape.*

A new subparagraph 40.1(g)(2)(i) is added to read as follows:

(i) *Recreational anglers are required to use a non-offset circle hook when fishing for striped bass with any natural bait. Striped bass caught on any other type of hook baited with natural bait must be returned to the water immediately without unnecessary injury.*

**Text of proposed rule and any required statements and analyses may be obtained from:** Carol Hoffman, Department of Environmental Conservation, Marine Resources, 205 N. Belle Mead Rd., Suite 1, East Setauket, NY 11733, (631) 444-0476, email: carol.hoffman@dec.ny.gov

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** 60 days after publication of this notice.

**Additional matter required by statute:** DEC has determined the Notice of Proposed Rule Making is an unlisted action pursuant to Article 8 of the ECL. A Short Environmental Assessment Form and a negative declaration have been prepared and are on file. A Coastal Assessment Form is also on file.

#### Regulatory Impact Statement

##### 1. Statutory authority:

Environmental Conservation Law (ECL) § 13-0105 directs that it shall be "the policy of the state that the primary principle in managing the state's marine fishery resource is to maintain the long-term health and abundance of marine fisheries resources and their habitats, and to ensure that [fisheries] are sustained in usable abundance and diversity for future generations." The legislature further directed that "the management of the state's transboundary and migratory species shall be consistent with [all] interjurisdictional management plans, interstate or state-federal."

ECL §§ 11-0303 and 13-0339 authorize DEC to adopt regulations governing Atlantic striped bass including: size limits, catch and possession limits, open and closed seasons, closed areas, restrictions on the manner of taking and landing, and other management measures.

ECL §§ 11-1521 and 13-0347 establish additional provisions for striped bass management in the Hudson River and marine waters, respectively.

##### 2. Legislative objectives:

It is the objective of the above-cited legislation that DEC manages marine fisheries to optimize resource use for fishermen in a manner that is consistent with federal marine fisheries conservation and management policies including all applicable interstate fishery management plans. The proposed rule would ensure that New York State maintains compliance and consistency with requirements of the Atlantic States Marine Fisheries Commission's (ASMFC) Interstate Fishery Management Plan (FMP) for Atlantic Striped Bass.

##### 3. Needs and benefits:

The proposed new management measures are required by Addendum VI to Amendment 6 of ASMFC's FMP for Atlantic Striped Bass, and are designed to reduce the recreational discard mortality of Atlantic striped bass. The proposed rule would amend 6 NYCRR Parts 10, 19, and 40 to

ensure that New York State maintains compliance with the requirements of ASMFC's FMP for Atlantic Striped Bass. Failure to maintain compliance with ASMFC's FMP for Atlantic Striped Bass may result in the federal closure of New York State's Atlantic striped bass fishery. FMPs are designed to promote the long-term sustainability of managed marine species, preserve states' marine resources, and protect the interests of both commercial harvesters and recreational anglers. Additionally, failure to adopt these regulations would result in population declines for critical Atlantic striped bass fishery stock.

##### 4. Costs:

The proposed rule would not impose any costs to DEC or local municipalities. Tackle and sporting goods stores may incur costs associated with shifting demand for non-offset circle hooks. Recreational fishermen may need to purchase circle hooks if they do not already use them. An internet search conducted on September 28, 2020 indicated that the average retail price for a non-offset circle hook is 75 cents per hook, and the average wholesale price is 15 cents per hook.

##### 5. Local government mandates:

The proposed rule does not impose any mandates on local governments.

##### 6. Paperwork:

None.

##### 7. Duplication:

The proposed amendment does not duplicate any state or federal requirement.

##### 8. Alternatives:

"No action" alternative: Under this alternative, New York State would not amend 6 NYCRR Parts 10, 19, and 40. This alternative was rejected because of New York State's obligations to comply with ASMFC's FMP for Atlantic Striped bass. Failure to adopt the proposed regulations will result in further declines to critical fishery stock and the potential federal closure of New York State's Atlantic striped bass fishery.

"Exemptions for specific bait and tackle types" alternative: This alternative was rejected because at the October 20, 2020 meeting of ASMFC's Striped Bass Management Board, a motion was passed that prohibited any such exemptions. To avoid potential fishery closure, New York State must comply with the FMP and therefore did not include exemptions in the proposed rule.

##### 9. Federal standards:

The amendments to 6 NYCRR Parts 10, 19, and 40 are in compliance with Addendum VI to Amendment 6 of ASMFC's FMP for Atlantic Striped Bass.

##### 10. Compliance schedule:

Compliance with the proposed regulation would be required upon the effective date of the rule.

The public would be notified of the changes to the regulations through publication in the State Register, through appropriate news releases, and through DEC's website.

#### Regulatory Flexibility Analysis

##### 1. Effect of rule:

The Atlantic State Marine Fisheries Commission (ASMFC) facilitates the cooperative management of marine and diadromous fish species among the fifteen Atlantic Coast member states. The principal mechanism for implementation of cooperative management of migratory fish is the ASMFC's Interstate Fishery Management Plans (FMPs) for individual species or groups of fish. The FMPs are designed to promote the long-term health of these species, preserve resources, and protect the interests of fishers. The proposed rule is necessary to remain in compliance with Addendum VI to Amendment 6 of the Atlantic Striped Bass FMP. Compliance is required to avoid the federal closure of New York State's striped bass fishery.

The proposed amendments to 6 NYCRR Parts 10, 19 and 40 would require recreational anglers to use circle hooks when they are fishing for striped bass using natural bait. The proposed rule would affect both the marine and coastal district, and inland waters, including the Hudson and Delaware Rivers and their tributaries.

The proposed rule required by ASMFC and is intended to reduce mortality associated with recreational fisheries for Atlantic striped bass. This rule making may have an impact on recreational fisheries, including private recreational fishers and party and charter boat operators, but the rule is designed and intended to preserve the long-term viability of these fisheries and associated businesses.

In 2019, DEC issued 519 party and charter boat licenses in the marine and coastal district. There were 53 Marine bait licenses sold in 2019. In addition, approximately 200 Hudson River marine permit gear licenses are sold annually; most of these permits are used for taking river herring to be used for striped bass bait.

There were also 420,012 people enrolled in DEC's Recreational Marine Fishing Registry in 2018, the last year for which data is available. All fishers need to register if they are age 16 and older and are either: (1) fishing for a saltwater fish species in the marine and coastal district while not

aboard a party or charter boat; or (2) fishing for a migratory fish of the sea (diadromous species) within the tidal waters of the Hudson River and its tributaries, or within the waters of the Delaware River. 2019 data from the National Marine Fisheries Service reported 4,002,584 recreational angler trips targeting striped bass in New York State.

The regulations do not apply directly to local governments and would not have any direct effects on local governments.

2. Compliance requirements:

The proposed regulations would not impose any new reporting or record keeping requirements on small businesses or local governments.

3. Professional services:

None.

4. Compliance costs:

The proposed rule would not impose any costs on local governments. Tackle and sporting goods stores may incur costs associated with shifting demand for non-offset circle hooks. Recreational fishermen may need to purchase circle hooks if they do not already use them. An internet search conducted on September 28, 2020 indicated that the average retail price for a non-offset circle hook is 75 cents per hook, and the average wholesale price is 15 cents per hook.

5. Economic and technological feasibility:

There is no additional technology required for small businesses, and this action would not apply to local governments. Non-offset circle hooks are readily available on the wholesale market to tackle and sporting goods stores.

6. Minimizing adverse impact:

The promulgation of this regulation is necessary for New York State to comply with the FMP for Atlantic striped bass. The regulations are intended to protect the striped bass resource and avoid the adverse impacts that would be associated with the federal closure of the fishery due to non-compliance with the FMP. Additionally, failure to implement these changes would result in continued population decline which could lead to a moratorium on the harvest of striped bass. A moratorium would have a severe adverse impact on the fishery, as well as its supporting industries which provide jobs and employment opportunities. Ultimately, the maintenance of long-term sustainable fisheries will have a positive effect on employment, as well as wholesale and retail outlets and other support industries. These regulations are being proposed in order to reduce fishing mortality of striped bass and allow for continued harvest consistent with the capacity of the resource to sustain such effort.

7. Small business and local government participation:

Addendum VI to Amendment 6 of ASMFC's FMP for Striped Bass was published on October 30, 2019. This provided general public notice of the striped bass circle hook requirements that would be required to be in place for the 2021 fishing season. DEC held Marine Resources Advisory Council (MRAC) meetings on July 14, September 15, and November 17, 2020 to gain their input on the potential regulation changes. DEC also held a meeting with the Hudson River Estuary Management Advisory Committee on September 10, 2020. DEC notified anglers of proposed regulatory changes in the 2020 DEC Freshwater Fishing Guide. On July 6, 2020 DEC alerted fishers of proposed regulatory changes in the DEC Saltwater Fishing and Boating Newsletter. Copies were distributed via e-mail. Cornell Cooperative Extension initiated a recreational striped bass outreach and education program, which includes the proposed regulatory changes. The 2019 season newsletter for the Hudson River Cooperative Angler Program was sent out to program participants and other interested Hudson River striped bass anglers in April 2020 and included a section defining and explaining non-offset circle hooks and the benefits in their use. DEC staff participated in a Hudson River Striped Bass seminar, which presented information about striped bass management in the river and on the coast. The presentation explained the definition of a non-offset circle hook as well as best handling practices when fishing for striped bass. DEC staff attended the World Fishing and Outdoor Expo in Suffern, NY in the winter of 2020, where public education materials regarding striped bass and best handling practices were also distributed.

DEC will continue to provide notice to affected fishers through email communications, newspapers and other media outlets.

8. For rules that either establish or modify a violation or penalties associated with a violation:

Pursuant to SAPA 202-b(1-a)(b), no such cure period is included in this rule because of the potential adverse impact on the resource. Cure periods for the illegal taking of fish or wildlife are neither desirable nor recommended. Immediate compliance is required to ensure the general welfare of the public and the resource is protected.

9. Initial review of the rule, pursuant to SAPA § 207 as amended by L. 2012, ch. 462:

DEC would conduct an initial review of the proposed rule within three years, as required by SAPA § 207.

**Rural Area Flexibility Analysis**

1. Types and estimated numbers of rural areas:

There are no rural areas within, or directly adjacent to, the marine and

coastal district. All or portions of eight Hudson River counties are considered rural areas of New York State: Albany, Columbia, Dutchess, Greene, Putnam, Orange, Rensselaer, and Ulster counties. All or portions of three Delaware River counties are also considered rural areas: Delaware, Orange, and Sullivan counties. The proposed regulations would affect individuals who participate in the Atlantic striped bass fishery and may also have an indirect effect on supporting industries.

2. Reporting, recordkeeping and other compliance requirements; and professional services:

There are no reporting or record keeping requirements associated with the proposed rule making. Furthermore, the rule making would not require the use of professional services for compliance.

3. Costs:

There would be no initial capital or annual costs for local governments to comply with the proposed regulations. Tackle and sporting goods stores may incur costs associated with shifting demand for non-offset circle hooks. Recreational fishermen may need to purchase circle hooks, if they do not already use them. An internet search conducted on September 28, 2020 indicated that the average retail price for a non-offset circle hook was 75 cents per hook, and the average wholesale price was 15 cents per hook.

4. Minimizing adverse impact:

The promulgation of this regulation is necessary for New York State to comply with the FMP for Atlantic striped bass. The regulations are intended to protect the striped bass resource and avoid the adverse impacts that would be associated with the federal closure of the fishery due to non-compliance with the FMP. Additionally, failure to implement these changes would result in continued population decline which could lead to a moratorium on the harvest of striped bass. A moratorium would have a severe adverse impact on the fishery, as well as its supporting industries. Ultimately, the maintenance of long-term sustainable fisheries will have a positive effect on employment, as well as wholesale and retail outlets and other support industries. These regulations are being proposed in order to reduce fishing mortality of striped bass and allow for continued harvest consistent with the capacity of the resource to sustain such effort.

Prior to the COVID outbreak, DEC staff attended the NY Boat Show in January 2020, and a local saltwater fishing expo in early March 2020. DEC distributed free packets of circle hooks, provided public education materials relating to best striped bass handling practices, and alerted fishermen of proposed regulatory changes. DEC also sent free packets of non-offset circle hooks to fishers enrolled in the marine cooperative anglers program.

5. Rural area participation:

DEC held Marine Resources Advisory Council (MRAC) meetings on July 14, 2020, September 15, 2020, and November 17, 2020 to gain rural population input on the proposed rule. DEC also held a meeting with the Hudson River Estuary Management Advisory Committee on September 10, 2020. On September 12, 2019, DEC held a public meeting seeking comment on the proposed regulatory changes in New Paltz, NY. DEC notified anglers of proposed regulatory changes in the 2020 DEC Freshwater Fishing Guide. On July 6, 2020 DEC alerted fishers of proposed regulatory changes in the DEC Saltwater Fishing and Boating Newsletter. Copies were distributed via e-mail. Cornell Cooperative Extension initiated a recreational striped bass outreach and education program, which included proposed regulatory changes. The 2019 season newsletter for the Hudson River Cooperative Angler Program was sent out to program participants and other interested Hudson River striped bass anglers in April 2020 and included a section defining and explaining circle hooks and the benefits of their use. DEC staff participated in a Hudson River Striped Bass seminar, which presented information about striped bass management in the river and on the coast. The presentation explained the definition of a non-offset circle hook as well as best handling practices when fishing for striped bass. DEC staff attended the World Fishing and Outdoor Expo in Suffern, NY in the winter of 2020, where public education materials regarding striped bass and best handling practices were distributed.

DEC will continue to provide notice to affected fishers through email communications, newspapers and other media outlets, including those in rural counties and towns.

6. Initial review of the rule, pursuant to SAPA § 207 as amended by L. 2012, ch. 462:

DEC would conduct an initial review of the proposed rule within three years, as required by SAPA section 207.

**Job Impact Statement**

The Department of Environmental Conservation (DEC) has determined that it is apparent that the proposed rule would not have a substantial adverse impact on job and employment opportunities in New York State. The proposed rule would require the use of non-offset circle hooks when fishing for striped bass in the marine and coastal district, and inland waters (including the Hudson and Delaware Rivers and their tributaries). The proposed rule addresses fishing mortality in the recreational striped bass



fishery and is intended to ensure the fishery is maintained in usable abundance for future generations. Ultimately, the maintenance of a long-term sustainable recreational fishery would have a positive effect on employment for party and charter boat operators, as well as wholesale and retail outlets and other support industries.

The proposed rule would likely require supporting industries to increase their stock of non-offset circle hooks. An internet search conducted on September 28, 2020 indicated that the average retail price for a non-offset circle hook was 75 cents per hook, and the average wholesale price was 15 cents per hook. DEC does not anticipate that stock adjustments made in response to this rule will have a substantial adverse impact on job or employment opportunities.

Since the proposed rule would not have a substantial impact on job and employment opportunities, DEC has determined that a Job Impact Statement is not required.

## Department of Financial Services

### EMERGENCY RULE MAKING

#### Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards of Full and Fair Disclosure

**I.D. No.** DFS-01-21-00001-E

**Filing No.** 912

**Filing Date:** 2020-12-16

**Effective Date:** 2020-12-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of section 52.76(b) of Title 11 NYCRR.

**Statutory authority:** Executive Law, section 29-A; Executive Order No. 202.82, dated December 13, 2020, promulgated thereunder; Financial Services Law, sections 202, 302; Insurance Law, sections 301, 3216, 3217, 3221 and 4303

**Finding of necessity for emergency rule:** Preservation of public health.

**Specific reasons underlying the finding of necessity:** The coronavirus disease 2019 ("COVID-19") has spread to millions of people worldwide, with approximately 775,000 confirmed cases in New York State, of which approximately 28,000 have resulted in death. COVID-19 has devastated communities and taken a huge economic toll on New York State. On March 7, 2020, Governor Andrew M. Cuomo issued Executive Order Number 202 declaring a disaster emergency in the State of New York in response to the COVID-19 pandemic and that declaration has been extended. COVID-19 immunizations have been developed that are approximately at least 90% effective against COVID-19, and experts estimate that at least 70% of Americans must receive the COVID-19 immunization in order to achieve herd immunity and stop the spread of this deadly disease. As a result, it is essential that New Yorkers have coverage for COVID-19 immunizations and the administration thereof, including any visits necessary to obtain the immunization, so that there are no barriers for New Yorkers expeditiously obtaining the immunizations. To address this need, the Governor issued Executive Order 202.82 on December 13, 2020, to temporarily modify Insurance Law Sections 3216(i)(17)(E), 3221(l)(8)(E) and (F), and 4303(j)(3) to apply to grandfathered health plans with respect to COVID-19 immunizations.

This amendment requires authorized insurers and health maintenance organizations that issue a policy or contract that provides hospital, surgical, or medical care coverage, including a grandfathered health plan, to provide coverage, with no cost-sharing, of COVID-19 immunizations and the administration thereof immediately upon the earliest of the date on which: (1) the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices issues a recommendation for the COVID-19 immunization; (2) the United States Preventive Services Taskforce issues a recommendation with an "A" or "B" rating for the COVID-19 immunization; or (3) the Superintendent of Financial Services ("Superintendent") determines, in consultation with the Commissioner of Health, that a policy or contract must cover the COVID-19 immunization.

Given the public health implications of COVID-19, it is essential that there are no barriers to New Yorkers accessing COVID-19 immunizations. Failure to ensure coverage of COVID-19 immunizations and the administration thereof could jeopardize the health and safety of the people of New York.

To ensure that there are no barriers to New Yorkers accessing COVID-19 immunizations without cost-sharing, it is imperative that this amendment be promulgated on an emergency basis for the preservation of the public health.

**Subject:** Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards of Full and Fair Disclosure.

**Purpose:** To require immediate coverage, without cost-sharing, for COVID-19 immunizations and the administration thereof.

**Text of emergency rule:** A new section 52.76(b) is added as follows:

(b)(1) Except as provided in paragraph (2) of this subdivision, a policy that provides hospital, surgical, or medical care coverage, including a grandfathered health plan, shall cover coronavirus disease 2019 (COVID-19) immunizations, and the administration thereof, immediately upon the earliest of the date on which: (i) the advisory committee on immunization practices of the federal centers for disease control issues a recommendation for the COVID-19 immunization; (ii) the United States preventive services task force issues a recommendation with an "A" or "B" rating for the COVID-19 immunization; or (iii) the superintendent determines, in consultation with the commissioner of health, that a policy shall cover the COVID-19 immunization. COVID-19 immunizations, and administration thereof, including any visits necessary to obtain the immunizations, administered at a provider's office, facility, pharmacy, or other setting, including any provider or location authorized by this State or the federal government to administer or host the administration of the immunization, shall not be subject to annual deductibles, coinsurance, copayments, or any other out-of-pocket cost.

(2) The coverage required under paragraph (1) of this subdivision shall not be limited to COVID-19 immunizations, and the administration thereof, administered by participating providers and shall apply to such immunizations, and the administration thereof, administered by non-participating providers until the expiration of the federally declared public health emergency and the disaster emergency declared by the governor of this State pursuant to Executive Order 202, as extended.

**This notice is intended** to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires March 15, 2021.

**Text of rule and any required statements and analyses may be obtained from:** Colleen Rumsey, Department of Financial Services, One Commerce Plaza, Albany, NY 12257, (518) 474-0154, email: Colleen.Rumsey@dfs.ny.gov

#### Regulatory Impact Statement

1. Statutory authority: Financial Services Law ("FSL") Sections 202 and 302 and Insurance Law ("IL") Sections 301, 3216, 3217, 3221, and 4303.

Executive Law Section 29-a grants the Governor of New York the authority to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist with or aid in coping with such disaster.

Executive Order 202.82 ("EO 202.82") issued on December 13, 2020, among other things, temporarily modifies IL Sections 3216(i)(17)(E), 3221(l)(8)(E) and (F), and 4303(j)(3) to apply to grandfathered health plans with regard to COVID-19 immunizations.

FSL Section 202 establishes the office of the Superintendent of Financial Services ("Superintendent").

FSL Section 302 and IL Section 301 authorize the Superintendent to prescribe regulations interpreting the IL and to effectuate any power granted to the Superintendent in the IL, FSL, or any other law.

IL Sections 3216, 3221, and 4303 set forth the standard provisions in individual, small group, large group, and blanket accident and health insurance policies and contracts. Specifically, Insurance Law Sections 3216(i)(17)(B)(ii) and (iii), 3221(l)(8)(B)(ii) and (iii), and 4303(j)(2)(B) and (C) require individual, group, and blanket policies or contracts that provide medical, major medical, or similar comprehensive-type coverage to cover an immunization, at no cost-sharing, for children who are 19 years old or younger if determined to be a necessary immunization by the Superintendent, in consultation with the Commissioner of Health. Insurance Law Sections 3216(i)(17)(E), 3221(l)(8)(E) and (F), and 4303(j)(3) further require individual, group, and blanket policies or contracts that provide hospital, surgical, or medical care coverage, except for a grandfathered health plan, to cover, at no cost-sharing, preventive care and screenings that have in effect a rating of "A" or "B" in the current recommendations of the United States Preventive Services Taskforce ("USPSTF") and immunizations that have in effect a recommendation from the Centers for Disease Control and Prevention's ("CDC's") Advisory Committee on Immunization Practices ("ACIP") regardless of the age of the recipient.

IL Section 3217(a) authorizes the Superintendent to issue regulations to establish minimum standards for the form, content and sale of accident

and health insurance policies and subscriber contracts of corporations organized under IL Articles 32 and 43 and Public Health Law Article 44.

2. Legislative objectives: The Legislature granted the Governor broad powers to take necessary action in cases of emergency that threaten the health, safety, and general welfare of New Yorkers. Specifically, Executive Law Section 29-a authorizes the Governor to temporarily suspend or modify statutes, rules and regulations, or parts thereof, during a State disaster emergency. Governor Andrew M. Cuomo modified the IL when issuing EO 202.82 on December 13, 2020 in relation to coverage for COVID-19 immunizations by grandfathered health plans.

The statutory sections cited above establish the minimum standards for the form, content, and sale of accident and health insurance, including coverage for certain immunizations with no cost-sharing. This amendment implements EO 202.82 and accords with the public policy objectives that the Legislature sought to advance in the foregoing sections of the IL by requiring coverage for coronavirus disease 2019 ("COVID-19") immunizations and the administration thereof immediately upon the earliest of the date on which: (1) the ACIP issues a recommendation for the COVID-19 immunization; (2) the USPSTF issues a recommendation with an "A" or "B" rating for the COVID-19 immunization; or (3) the Superintendent determines, in consultation with the Commissioner of Health, that a policy or contract must cover the COVID-19 immunization. This amendment also prohibits copayments, coinsurance, annual deductibles, and any other out-of-pocket costs for such immunizations and the administration thereof.

3. Needs and benefits: COVID-19 has spread to millions of people worldwide, with approximately 775,000 confirmed cases in New York State, of which approximately 28,000 have resulted in death. COVID-19 has devastated communities and has taken a huge economic toll on New York State. COVID-19 immunizations have been developed that are approximately at least 90% effective against COVID-19, and experts estimate that at least 70% of Americans must receive the COVID-19 immunization in order to achieve herd immunity and stop the spread of this deadly disease. As a result, it is essential that New Yorkers have coverage for COVID-19 immunizations and the administration thereof, including any visits necessary to obtain the immunization, so that there are no barriers to New Yorkers expeditiously obtaining the immunizations.

This amendment requires authorized insurers and health maintenance organizations (collectively, "health care plans") that issue a policy or contract that provides hospital, surgical, or medical care coverage, including a grandfathered health plan in accordance with Executive Order 202.82, to provide coverage of COVID-19 immunizations and the administration thereof immediately upon the earliest of the date on which: (1) the ACIP issues a recommendation for the COVID-19 immunization; (2) the USPSTF issues a recommendation with an "A" or "B" rating for the COVID-19 immunization; or (3) the Superintendent determines, in consultation with the Commissioner of Health, that a policy or contract must cover the COVID-19 immunization. Coverage for COVID-19 immunizations, and the administration thereof, and any visits necessary to obtain the immunizations at a provider's office, facility, pharmacy, or other setting, including any provider or location authorized by New York State or the federal government to administer or host the administration of the immunization, will not be subject to annual deductibles, coinsurance, copayments, or any other out-of-pocket cost. There will be coverage for COVID-19 immunizations administered by non-participating providers until the expiration of the federally declared public health emergency or the disaster emergency declared by the New York State Governor pursuant to Executive Order 202, as extended.

The federal Departments of Health and Human Services, Treasury, and Labor ("federal Departments") have issued Interim Final Rule 85 Fed. Reg. 71142 (November 6, 2020) ("federal rules") that address coverage for COVID-19 immunizations and their administration. The federal rules require COVID-19 immunizations and their administration to be covered when provided by out-of-network providers for the duration of the federal public health emergency for COVID-19. The federal rules state that reimbursement for out-of-network providers must be made in an amount that is reasonable, as determined by comparison to prevailing market rates for such services. The preamble to the federal rules indicates that the federal Departments will consider the amount of payment to be reasonable if the health care plan pays the provider the amount that would be paid under Medicare for the service, although the federal Departments are seeking comments on this approach. The Department of Financial Services ("Department") may address out-of-network provider reimbursement for COVID-19 immunizations and their administration in future rulemaking if the federal rules are finalized.

4. Costs: Health care plans may incur additional costs to comply with the amendment because they may need to file new policy and contract forms and rates. However, any costs should be minimal because health care plans submit policy and contract forms and rates as a part of the normal course of business.

This amendment does not impose any costs on providers.

This amendment may impose compliance costs on the Department because the Department will need to review amended policy and contract forms and rates. However, any additional costs incurred by the Department should be minimal, and the Department should be able to absorb the costs in its ordinary budget.

The amendment will not impose compliance costs on any local governments.

5. Local government mandates: The amendment does not impose any program, service, duty or responsibility on any county, city, town, village, school district, fire district or other special district.

6. Paperwork: Health care plans may need to file new policy and contract forms and rates with the Superintendent.

Providers and local governments should not incur any additional paperwork to comply with this amendment.

7. Duplication: The federal Departments have issued federal rules interpreting the immunization requirements of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), codified at 15 U.S.C. Section 9001 et seq. The federal rules require issuers to cover COVID-19 immunizations and their administration with no cost-sharing under all non-grandfathered group and individual comprehensive health insurance policies and contracts when administered by providers enrolled in the CDC COVID-19 Vaccination Program.

The federal rules also require COVID-19 immunizations and their administration to be covered when provided by out-of-network providers for the duration of the federally declared public health emergency for COVID-19. The federal requirement for out-of-network coverage ends when the federally declared public health emergency is terminated.

Furthermore, the CARES Act requires coverage of any COVID-19 immunizations and their administration within 15 business days after the immunization has been recommended by ACIP.

8. Alternatives: There are no significant alternatives to consider.

9. Federal standards: The amendment exceeds the minimum standards of the federal government for this subject area. This amendment requires: (1) grandfathered health plans to provide the coverage; (2) coverage for COVID-19 immunizations and the administration thereof at a provider's office, facility, pharmacy, or other setting, including any provider or location authorized by New York State or the federal government to administer or host the administration of the immunization; (3) coverage immediately upon certain triggering events; and (4) coverage for COVID-19 immunizations administered by non-participating providers until the expiration of the federally declared public health emergency and the disaster emergency declared by the New York State Governor pursuant to Executive Order 202, as extended.

10. Compliance schedule: The rule will take effect immediately upon the filing of the Notice of Emergency Adoption with the Secretary of State.

#### **Regulatory Flexibility Analysis**

1. Effect of rule: This rule affects authorized insurers and health maintenance organizations (collectively, "health care plans") and providers. This amendment requires a policy or contract that provides hospital, surgical, or medical care coverage, including a grandfathered health plan, to provide immediate coverage, without cost sharing, of COVID-19 immunizations and the administration thereof at a provider's office, facility, pharmacy, or other setting, including any provider or location authorized by New York State or the federal government to administer or host the administration of the immunization.

Industry has asserted that certain health care plans subject to the amendment are small businesses. Providers also may be small businesses. As a result, certain health care plans and providers that are small businesses will be affected by this amendment.

This amendment does not affect local governments.

2. Compliance requirements: No local government will have to undertake any reporting, recordkeeping, or other affirmative acts to comply with this amendment because the amendment does not apply to any local government.

A health care plan that is a small business may be subject to reporting, recordkeeping, or other compliance requirements as the health care plan may need to file new policy or contract forms and rates with the Superintendent of Financial Services.

A provider that is a small business should not be subject to reporting, recordkeeping, or other compliance requirements.

3. Professional services: No local government will need professional services to comply with this amendment because the amendment does not apply to any local government. No health care plan or provider that is a small business should need to retain professional services, such as lawyers or auditors, to comply with this amendment.

4. Compliance costs: No local government will incur any costs to comply with this amendment because the amendment does not apply to any local government.

A health care plan that is a small business may incur costs to comply

with this amendment because it may need to file new policy or contract forms and rates. However, any costs should be minimal because health care plans submit policy and contract forms and rates as a part of the normal course of business.

This amendment does not impose any additional costs on a provider that is a small business.

5. Economic and technological feasibility: This amendment does not apply to any local government; therefore, no local government should experience any economic or technological impact as a result of the amendment. A health care plan and a provider that is a small business should not incur any economic or technological impact as a result of the amendment.

6. Minimizing adverse impact: There will not be an adverse impact on any local government because the amendment does not apply to any local government. This amendment should not have an adverse impact on a health care plan or provider that is a small business because the amendment uniformly affects all health care plans and providers.

7. Small business and local government participation: The Department of Financial Services ("Department") notified trade associations representing health care plans that are small businesses that it intended to promulgate this amendment. Health care plans and providers that are small businesses also will have an opportunity to participate in the rulemaking process when the amendment is published in the State Register and posted on the Department's website.

#### **Rural Area Flexibility Analysis**

1. Types and estimated numbers of rural areas: Authorized insurers and health maintenance organizations (collectively, "health care plans") and providers affected by this amendment operate in every county in New York State, including rural areas as defined by State Administrative Procedure Act section 102(10).

2. Reporting, recordkeeping, and other compliance requirements; and professional services: A health care plan, including a health care plan in a rural area, may be subject to additional reporting, recordkeeping, or other compliance requirements because the health care plan may need to file new policy or contract forms and rates with the Department of Financial Services ("Department").

A provider, including a provider in a rural area, should not be subject to reporting, recordkeeping, or other compliance requirements.

A health care plan and provider, including those in a rural area, should not need to retain professional services, such as lawyers or auditors, to comply with this amendment.

3. Costs: Health care plans, including those in rural areas, may incur additional costs to comply with the amendment because they may need to file new policy and contract forms and rates with the Department. However, any costs should be minimal because health care plans submit policy and contract forms and rates as a part of the normal course of business.

Providers, including those in rural areas, should not incur additional costs to comply with the amendment.

4. Minimizing adverse impact: This amendment uniformly affects health care plans and providers that are located in both rural and non-rural areas of New York State. The amendment should not have an adverse impact on rural areas.

5. Rural area participation: The Department notified trade associations representing health care plans that are in rural areas that it intended to promulgate this amendment. Health care plans and providers in rural areas will also have an opportunity to participate in the rulemaking process when the amendment is published in the State Register and posted on the Department's website.

#### **Job Impact Statement**

This amendment should not adversely impact jobs or employment opportunities in New York State. The amendment requires a policy or contract that provides hospital, surgical, or medical care coverage, including a grandfathered health plan, to provide immediate coverage, without cost sharing, of COVID-19 immunizations and the administration thereof at a provider's office, facility, pharmacy, or other setting, including any provider or location authorized by New York State or the federal government to administer or host the administration of the immunization. As a result, there should be no impact on jobs or employment opportunities.

## Department of Health

### EMERGENCY RULE MAKING

#### **Hospital Non-Comparable Ambulance Acute Rate Add-On**

**I.D. No.** HLT-31-20-00012-E

**Filing No.** 916

**Filing Date:** 2020-12-18

**Effective Date:** 2020-12-18

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of section 86-1.15 of Title 10 NYCRR.

**Statutory authority:** L. 2020, ch. 56

**Finding of necessity for emergency rule:** Preservation of public health.

**Specific reasons underlying the finding of necessity:** The proposed amendment restricts article 28 hospitals eligible to receive a non-comparable ambulance add-on in their acute inpatient rate to providers that are not receiving a supplemental payment for these costs in accordance with chapter 56 of the Laws of 2020 effective on October 1, 2020.

Section three of part LL of chapter 56 of the Laws of 2020 provides the Commissioner of Health with authority to issue emergency regulations. This regulation amendment is required in order to eliminate any potential duplicate payment for these ambulance services.

**Subject:** Hospital Non-comparable Ambulance Acute Rate Add-on.

**Purpose:** Prevents duplicate claiming by Article 28 hospitals for the ambulance add-on regarding participation in the program.

**Text of emergency rule:** Pursuant to the authority vested in the Commissioner of Health by section three of part LL of chapter 56 of the Laws of 2020, paragraph (1) of subdivision (1) of Section 86-1.15 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended to be effective upon filing with the Secretary of State, to read as follows:

(1) Medicaid costs associated with ambulance services operated by a facility and reported as inpatient costs in the institutional cost report. *Effective October 1, 2020, these costs shall exclude ground emergency transportation services costs that are being reimbursed pursuant to Chapter 56 of the Laws of 2020;* and

**This notice is intended** to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. HLT-31-20-00012-P, Issue of August 5, 2020. The emergency rule will expire February 15, 2021.

**Text of rule and any required statements and analyses may be obtained from:** Katherine Ceroalo, DOH, Bureau of Program Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqa@health.ny.gov

#### **Regulatory Impact Statement**

**Statutory Authority:**

The statutory authority for this regulation is contained in Chapter 56 of the Laws of 2020 and authorizes the Commissioner to promulgate regulations, including emergency regulations, regarding a supplemental Medicaid reimbursement payment for ground emergency medical transportation services. This supplemental payment is in lieu of an ambulance non-comparable add-on in the hospital acute inpatient reimbursement rate. Rate regulations are set forth in Subpart 86-1 of Title 10 (Health) of the Official Compilation of Codes, Rules, and Regulations of the State of New York (NYCRR).

**Legislative Objectives:**

The legislative objective is to provide the ability to participate in the supplemental payment for ground emergency medical transportation services but eliminate any potential duplicate Medicaid reimbursement.

**Needs and Benefits:**

Based on the requirements of Chapter 56 of the Laws of 2020, eligible ground emergency transportation providers will be provided the ability to participate in a supplemental payment in lieu of receiving reimbursement through a hospital. Article 28 hospitals currently receive reimbursement through their acute hospital inpatient rate for ambulance services provided by the ground emergency medical transportation providers. For ground emergency transportation providers that meet the requirements of this chapter and receive the supplemental payment, the hospitals through



which they were reimbursed will not be eligible to also receive the ambulance add-on in the acute hospital inpatient rate.

**Costs:**

Costs to Private Regulated Parties:

There will be no additional costs to private regulated parties.

Costs to State Government:

There is no cost to State Government for this proposed regulation.

Costs of Local Government:

There is no cost to Local Government for this proposed regulation.

Costs to the Department of Health:

There will be no additional costs to the Department of Health as a result of this proposed regulation.

Local Government Mandates:

The proposed regulation does not impose any new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district.

Paperwork:

No additional paperwork is required of providers.

Duplication:

This regulation does not duplicate any existing federal, state or local government regulation.

Alternatives:

There is no alternative as an alternative would provide a duplicate payment to hospitals.

Federal Standards:

The proposed regulation does not exceed any minimum standards of the federal government for the same or similar subject areas.

Compliance Schedule:

The Department of Health will be implementing the ground emergency transportation services supplemental program effective on or after October 1, 2020 which requires the potential duplicate payment be removed as of the same date.

### Regulatory Flexibility Analysis

No regulatory flexibility analysis is required pursuant to section 202(b)(3)(a) of the State Administrative Procedure Act. The proposed regulations do not impose an adverse economic impact on small businesses or local governments, and they do not impose reporting, recordkeeping or other compliance requirements on small businesses or local governments.

### Rural Area Flexibility Analysis

No rural flexibility analysis is required pursuant to section 202-bb(4)(a) of the State Administrative Procedure Act. The proposed regulations do not impose an adverse impact on facilities in rural areas, and they do not impose reporting, record keeping or other compliance requirements on facilities in rural areas.

### Job Impact Statement

A Job Impact Statement is not required pursuant to Section 201-a(2)(a) of the State Administrative Procedure Act. The proposed rule will not have a substantial adverse impact on jobs or employment opportunities, nor does it have adverse implications for job opportunities.

### Assessment of Public Comment

The agency received no public comment.

## EMERGENCY RULE MAKING

### Hospital Indigent Care Pool Payment Methodology

**I.D. No.** HLT-40-20-00002-E

**Filing No.** 917

**Filing Date:** 2020-12-18

**Effective Date:** 2020-12-18

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of section 86-1.47 of Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 2807-k(5-d)

**Finding of necessity for emergency rule:** Preservation of public health.

**Specific reasons underlying the finding of necessity:** The proposed amendments implement an extension to the methodology that the Department of Health uses to determine the Indigent Care Pool payments, eliminates the transition payment afforded to all hospitals receiving the pool payments, and creates a transition payment pool for Enhanced Safety Net Hospitals as enacted in Public Health Law Sections 2807-k(5-d). Public Health Law Section 2807-k(5-d)(b) provide the Commissioner of

Health with authority to issue emergency regulations in order to implement these amendments.

**Subject:** Hospital Indigent Care Pool Payment Methodology.

**Purpose:** To develop an indigent care distribution methodology for calendar years through 2022.

**Text of emergency rule:** Pursuant to the authority vested in the Commissioner of Health by section 2807-k(5-d) of the Public Health Law, Section 86-1.47 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended, to be effective upon filing with the Secretary of State, to read as follows:

Subdivision (i) of section 86-1.47 is repealed.

Subdivision (a) of section 86-1.47 is amended by adding paragraphs (1) and (2) to read as follows:

(a) Effective for periods on and after January 1, 2013, payments pursuant to subdivision 5-d of section 2807-k of the Public Health Law shall be made in accordance with the provisions of this section.

(1) Funds reserved in the Financial Assistance Compliance Pool ("FACP") pursuant to § 2807-k(5-d)(b)(iv) of the Public Health Law for the calendar years 2014 through 2022 shall be distributed to hospitals which demonstrate substantial compliance, as determined by the Commissioner, with the provisions of § 2807-k(9-a) of the Public Health Law (the "financial assistance law" or "FAL").

(2) Hospitals which are determined to be in substantial FAL compliance by the end of each calendar year shall receive the following year's FACP funds as soon as practical in such year, in accordance with subdivision (b) of this section.

Section 86-1.47 is amended by adding subdivisions (i) and (j) to read as follows:

(i) For the 2019 calendar year, payments shall be made as follows:

(1) One hundred thirty nine million four hundred thousand dollars (\$139,400,000) shall be distributed as Medicaid disproportionate share hospital ("DSH") payments to major public general hospitals, including the hospitals operated by public benefit corporations, on the basis of each hospital's uncompensated care nominal need, as determined in accordance with the provisions of subdivision (b) of this section, as a share of the aggregate uncompensated care nominal need for all major public general hospitals, further adjusted by a transition factor that shall be calculated such that no hospital shall experience a reduction in payments pursuant to this section that is greater than seventeen and a half percent less than the average distributions such hospitals received pursuant to § 2807-k of the Public Health Law for the three year period January 1, 2010, through December 31, 2012.

(2) Nine hundred ninety four million nine hundred thousand dollars (\$994,900,000) shall be distributed as Medicaid DSH payments to eligible general hospitals, other than major public general hospitals, on the basis of each hospital's uncompensated care need share, as determined in accordance with the provisions of subdivision (b) of this section, further adjusted by a transition factor that shall be calculated such that no hospital shall experience a reduction in payments pursuant to this section that is greater than seventeen and a half percent less than the average distributions such hospitals received pursuant to § 2807-k and § 2807-w of the Public Health Law, excluding academic medical center grants received pursuant to § 2807-k(5-b)(b)(v) of the Public Health Law, and after any reductions made pursuant to § 2807-k(17) of the Public Health Law, for the three year period January 1, 2010, through December 31, 2012.

(3) Payments made pursuant to paragraphs (1) and (2) of this subdivision shall be further adjusted such that payments made to hospitals that experience increases in payments, as compared to the average of such payments made pursuant to this section for the three year period January 1, 2010 through December 31, 2012, shall be sufficient, as determined by the Commissioner, to ensure, in conjunction with such other funding as may be made available, the full funding of the transition adjustments described in paragraphs (1) and (2) of this subdivision.

(j) For the 2020 through 2022 calendar years, payments shall be made as follows:

(1) One hundred thirty nine million four hundred thousand dollars (\$139,400,000) shall be distributed as Medicaid disproportionate share hospital ("DSH") payments to major public general hospitals, including the hospitals operated by public benefit corporations, on the basis of each hospital's uncompensated care nominal need, as determined in accordance with the provisions of subdivision (b) of this section, as a share of the aggregate uncompensated care nominal need for all major public general hospitals.

(2) The nine hundred sixty-nine million nine hundred thousand dollars (\$969,900,000) shall be distributed as Medicaid DSH payments to eligible general hospitals, other than major public general hospitals, on the basis of each hospital's uncompensated care need share, as determined in accordance with the provisions of subdivision (b) of this

section, excluding any reductions made pursuant to § 2807-k(17) of the Public Health Law.

(3) Payments made pursuant to paragraph (2) of this subdivision shall be further adjusted such that such payments made to hospitals shall be subject to an aggregate reduction of one hundred fifty million dollars (\$150,000,000), provided that eligible general hospitals, other than major public general hospitals, that qualify as enhanced safety net hospitals under § 2807-c(34) of the Public Health Law for state fiscal year 2019-2020 shall not be subject to such reduction. The methodology to allocate the reduction shall take into account the payor mix of each voluntary hospital, including the percentage of inpatient days paid by Medicaid. Such methodology will calculate the total public payor mix of each facility and calculate an average public payor mix.

For the purposes of this subparagraph, public payor mix means the percentage of total reported Medicaid and Medicare inpatient days, as reported in Exhibit 32 of the Institutional Cost Report (ICR) for the reporting period two years prior to the distribution year, where Medicaid and Medicare were the primary payors, out of total reported inpatient days which includes all inpatient services but excludes Alternate Level of Care days.

Hospitals exceeding the calculated average of public payor mix will be exempt from reductions pursuant to this subparagraph. Hospitals that fall below the calculated average of public payor mix will be subject to a proportionate reduction pursuant to this subparagraph.

(4) Payments made pursuant to paragraph (2) shall be further adjusted such that sixty-four million six hundred thousand dollars (\$64,600,000) shall be distributed to eligible general hospitals, other than major public general hospitals, that qualify as Enhanced Safety Net Hospitals under § 2807-c(34) of the Public Health Law as of April 1, 2020, and that experience a reduction in indigent care pool payments pursuant to this subdivision when compared to their 2019 ICP payments. Such additional payments shall be calculated to equal the proportional reduction experienced by the facility out of the total decrease experienced by all qualifying Enhanced Safety Net Hospitals multiplied by the sixty-four million six hundred thousand dollars (\$64,600,000).

**This notice is intended** to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. HLT-40-20-00002-P. Issue of October 7, 2020. The emergency rule will expire February 15, 2021.

**Text of rule and any required statements and analyses may be obtained from:** Katherine Ceroalo, DOH, Bureau of Program Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.ny.gov

#### **Regulatory Impact Statement**

##### **Statutory Authority:**

The statutory authorities for this regulation for calendar year (CY) 2019 are contained in Section 2807-k(5-d) of the Public Health Law (PHL), as amended by Section 2 of Part A of Chapter 57 of the Laws of 2018, and Section 3 of Part KK of Chapter 56 of the Laws of 2020. Such section of the Public Health Law requires the Commissioner to promulgate regulations, including emergency regulations, regarding the extension of a distribution methodology to make annual indigent care pool payments to general hospitals for the four-year period January 1, 2019 through December 31, 2022.

##### **Legislative Objectives:**

The legislative objective of PHL 2807-k(5-d) is to establish methodologies for the distribution of certain pools of funds to certain hospitals, including an indigent care pool.

##### **Needs and Benefits:**

The current regulation contains, for calendar years through 2018, the methodology required to determine a hospital's relative uncompensated care need. It incorporates both uninsured and Medicaid inpatient and outpatient volume, which form the basis for the allocation of a proportional share of the total available pool funds. The proposed amendment would extend this methodology to calendar years 2019 through 2022, in conformance with amendments to PHL Section 2807-k(5-d).

Further, for calendar years through 2022, the new methodology makes necessary spending amendments that conform to federal Disproportionate Share Hospital (DSH) reform guidelines by targeting payments to hospitals that provide a disproportionate share of uncompensated care to the uninsured and Medicaid inpatient and outpatient population. The reform guidelines also aim to strengthen hospital compliance with the Financial Aid Law contained in Section 2807-k(9-a) of the Public Health Law.

The current regulation also includes, for calendar year 2019 only, \$25M in transition payments. This transition payment establishes a minimum payment as a set percentage of the average indigent care pool payments received by the hospital in the years 2010-2012. Hospitals that experience

gains have their distributions similarly capped by a set percentage of the average indigent care pool payments received in the years 2010-2012. The proposed amendment would extend the transition payments for another calendar year, in conformance with amendments to PHL Section 2807-k(5-d).

For calendar years 2020-2022, the proposed regulation eliminates the previously utilized transition collar and the corresponding \$25 million used to fund that transition collar. The Voluntary Pool will be reduced by an aggregate \$150 million based on hospitals with a low relative proportion of hospitals covered by public payors. Hospitals defined as Enhanced Safety Net Hospitals (ESNH) under Section 2807-c of the Public Health Law are exempt from this reduction. Additionally, beginning in CY 2020, the establishment of a new \$64.6 million Enhanced Safety Net Transition Collar Pool will ensure that no ESNH experiences severe financial instability resulting from the removal of the transition collar and its associated funding through the Voluntary hospital pool as a result of the updated indigent care distribution methodology for these years. This transition payment will be distributed by taking each voluntary ESNH and comparing its distribution year allocation to their CY 2019 allocation. ESNHs experiencing a reduction will receive a proportional distribution of the total \$64.6 million in funds available. The proposed amendment would extend the ESNH transition payments to calendar years 2020 through 2022, in conformance with amendments to PHL Section 2807-k(5-d).

The current regulation also requires, for calendar years 2019 through 2022, the Commissioner to withhold one percent of the total indigent care pool funds available to distribute to hospitals who demonstrate substantial compliance with the Financial Aid Law in accordance with PHL Section 2807-k(9-a). The proposed amendment would extend the one percent withholding and distribution to hospitals for calendar years 2019 through 2022, in conformance with amendments to PHL Section 2807-k(5-d).

This regulation amendment is necessary to preserve the integrity of the Medicaid program and maintain the Global Cap, while still protecting the facilities that provide necessary services to poor and uninsured patients.

##### **Costs:**

##### **Costs to Private Regulated Parties:**

There will be no additional costs to private regulated parties. The Department utilizes audited information contained in hospitals' Institutional Cost Reports, which the hospitals are already required to submit to the Department on an annual basis.

##### **Costs to State Government:**

There is no increase in Medicaid expenditures anticipated as a result of this proposed amendment. This proposal results in a net savings of \$110.4 million gross (\$55.2 million State share) for calendar years 2020 through 2022.

##### **Costs to Local Government:**

Local districts' share of Medicaid costs is statutorily capped; therefore, there will be no additional costs to local governments as a result of this proposed amendment.

##### **Costs to the Department of Health:**

There will be no additional administrative costs to the Department of Health as a result of this proposed amendment.

##### **Local Government Mandates:**

The proposed amendment does not impose any new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district.

##### **Paperwork:**

There are no new reporting requirements, forms or additional paperwork as a result of this proposed amendment.

##### **Duplication:**

This proposed amendment does not duplicate any existing federal, state or local regulations.

##### **Alternatives:**

The Department of Health could have chosen a different method; however, the Department developed the distribution methodology and incorporated recommendations from the ICP workgroup (including representatives from the industry associations representing the hospitals subject to the proposed amendment).

##### **Federal Standards:**

The proposed amendment does not exceed any minimum standards of the federal government for the same or similar subject area.

##### **Compliance Schedule:**

The proposed amendment grants the Commissioner of Health the authority to withhold one percent of the total indigent care pool funds available for years 2019 through 2022. Hospitals must demonstrate compliance with the provisions of the Financial Aid Law contained in Section 2807-k(9-a) of the Public Health Law to receive their share of the one percent withheld funds. There are no additional compliance efforts required by the hospitals.

#### **Regulatory Flexibility Analysis**

##### **Effect of Rule:**

For the purpose of this regulatory flexibility analysis, small businesses



are general hospitals with 100 or fewer full-time equivalents. Based on recent financial and statistical data extracted from the Institutional Cost Report, five hospitals were identified as employing fewer than 100 employees.

Some hospitals subject to this regulation may see a decrease in their indigent care payments as a result of this regulation.

This rule will have no direct effect on local governments.

**Compliance Requirements:**

The proposed amendment requires the Commissioner of Health to withhold one percent of the total indigent care pool funds available for years 2019 through 2022. All hospitals must demonstrate compliance with the provisions of the Financial Aid Law as set forth in Section 2807-k(9-a) of the Public Health Law to receive their share of the funds held in this pool. No other compliance efforts are required.

The rule will have no direct effect on local governments.

**Professional Services:**

No new or additional professional services are required in order to comply with the proposed amendment.

**Compliance Costs:**

No additional compliance costs are anticipated as a result of this proposed amendment.

**Economic and Technological Feasibility:**

Small businesses will be able to comply with the economic and technological aspects of this proposed amendment because there are no technological requirements other than the use of existing technology, and the overall economic aspect of complying with the requirements is expected to be minimal.

**Minimizing Adverse Impact:**

A transition payment will be provided for calendar year 2019 to ensure that no hospital experiences severe financial instability resulting from the methodology. Changes made in calendar years 2020-2022 exclude hospitals defined as Enhanced Safety Net Hospitals and exclude hospitals which serve a high burden of public payor patients from the \$150 million reduction. Additionally, for calendar years 2020 through 2022, the Enhanced Safety Net Transition Collar provides funding to qualifying hospitals to mitigate funding reductions resulting from the removal of the transition collar.

Local districts' share of Medicaid costs is statutorily capped; therefore, there will be no adverse impact to local governments as a result of this proposal.

**Small Business and Local Government Participation:**

These proposed regulations arise from a change in State law pursuant to Chapter 56 of the Laws of 2020, Part MM. The initiatives were recommended by the MRT II, a group comprised with representatives of LDSS and MMCOs among others, following a series of public meetings where stakeholders had the opportunity to comment and collaborate on ideas to address the efficacy of these services. The State filed Federal Public Notices which were published in the State Register on May 8, 2019 and June 3, 2020, which served as clarifications of State Plan Amendment (SPA) 19-0001 and for SPA 20-0040, respectively. These Notices provide a summary of the action to be taken and instructions as to where the public, including small businesses and local governments, could locate copies of the corresponding proposed State Plan Amendments. The Notices further invited the public to review and comment on the related proposed State Plan Amendments. In addition, contact information for the Department of Health was provided for anyone interested in further information.

#### **Rural Area Flexibility Analysis**

**Types and Estimated Numbers of Rural Areas:**

This rule applies uniformly throughout the state, including rural areas. Rural areas are defined as counties with a population less than 200,000 and counties with a population of 200,000 or greater that have towns with population densities of 150 persons or fewer per square mile. The following 43 counties have a population of less than 200,000 based upon the United States Census estimated county populations for 2010 (<https://www.census.gov/quickfacts/>). Approximately 17% of small health care facilities are located in rural areas.

Allegany County	Greene County	Schoharie County
Cattaraugus County	Hamilton County	Schuyler County
Cayuga County	Herkimer County	Seneca County
Chautauqua County	Jefferson County	St. Lawrence County
Chemung County	Lewis County	Steuben County
Chenango County	Livingston County	Sullivan County
Clinton County	Madison County	Tioga County
Columbia County	Montgomery County	Tompkins County
Cortland County	Ontario County	Ulster County

Delaware County	Orleans County	Warren County
Essex County	Oswego County	Washington County
Franklin County	Otsego County	Wayne County
Fulton County	Putnam County	Wyoming County
Genesee County	Rensselaer County	Yates County
	Schenectady County	

The following counties have a population of 200,000 or greater and towns with population densities of 150 persons or fewer per square mile. Data is based upon the United States Census estimated county populations for 2010.

Albany County	Monroe County	Orange County
Broome County	Niagara County	Saratoga County
Dutchess County	Oneida County	Suffolk County
Erie County	Onondaga County	

**Reporting, Recordkeeping and Other Compliance Requirements; and Professional Services:**

No new additional professional services are required for providers in rural areas to comply with the proposed amendment. The proposed amendment requires the Commissioner of Health to withhold one percent of the total indigent care pool funds available for years 2019 through 2022. All hospitals must demonstrate compliance with the provisions of the Financial Aid Law as set forth in Section 2807-k(9-a) of the Public Health Law to receive their share of the funds held in this pool. No other compliance efforts are required.

**Costs:**

No additional compliance costs are anticipated as a result of this proposed amendment.

**Minimizing Adverse Impact:**

A transition payment will be provided for calendar year 2019 to ensure that no hospital experiences severe financial instability resulting from the methodology. Changes made in calendar years 2020 through 2022 exclude hospitals defined as Enhanced Safety Net Hospitals and exclude hospitals which serve a high burden of public payor patients from the \$150 million reduction. Additionally, for calendar years 2020-2022, the Enhanced Safety Net Transition Collar provides funding to qualifying hospitals to mitigate funding reductions resulting from the removal of the transition collar.

Local districts' share of Medicaid costs is statutorily capped; therefore, there will be no adverse impact to local governments as a result of this proposal.

**Rural Area Participation:**

The State has filed Federal Public Notices, published in the State Register on May 8, 2019, April 1, 2020, and June 3, 2020. The Notices provided a summary of the action to be taken and instructions as to where the public, including rural area members and local governments, could locate copies of the corresponding proposed State Plan Amendments. The Notices further invited the public to review and comment on the related proposed State Plan Amendments. In addition, contact information for the Department of Health was provided for anyone interested in further information.

#### **Job Impact Statement**

A Job Impact Statement is not required pursuant to Section 201-a(2)(a) of the State Administrative Procedure Act. The proposed rule extends the hospital indigent care pool payment methodology for the four-year period January 1, 2019 through December 31, 2022 and will not have a substantial adverse impact on jobs or employment opportunities, nor does it have adverse implications for job opportunities.

## Office for People with Developmental Disabilities

### NOTICE OF ADOPTION

#### Crisis Intervention Services for Individuals with Intellectual/Developmental Disabilities

**I.D. No.** PDD-42-20-00001-A

**Filing No.** 919

**Filing Date:** 2020-12-22

**Effective Date:** 2021-01-06

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of Subpart 635-16 to Title 14 NYCRR.

**Statutory authority:** Mental Hygiene Law, sections 13.07, 13.09, 13.15(a) and 16.00

**Subject:** Crisis Intervention Services for individuals with intellectual/developmental disabilities.

**Purpose:** Specifies qualifications for providers for the provision of these services and allowance for billing.

**Text or summary was published** in the October 21, 2020 issue of the Register, I.D. No. PDD-42-20-00001-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Mary Beth Babcock, Office for People With Developmental Disabilities, 44 Holland Avenue, Albany, NY 12229, (518) 474-7700, email: rau.unit@opwdd.ny.gov

**Additional matter required by statute:** Pursuant to the requirements of the State Environmental Quality Review Act, OPWDD, as lead agency, has determined that the action described herein will have no effect on the environment and an E.I.S. is not needed.

#### Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2023, which is no later than the 3rd year after the year in which this rule is being adopted.

#### Assessment of Public Comment

The agency received no public comment.

## Public Service Commission

### NOTICE OF ADOPTION

#### Request for a CPCN and a Lightened Regulatory Regime

**I.D. No.** PSC-19-19-00014-A

**Filing Date:** 2020-12-18

**Effective Date:** 2020-12-18

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** On 12/17/20, the PSC adopted an order granting Bluestone Wind, LLC's (Bluestone) request for a Certificate of Public Convenience and Necessity (CPCN) and a lightened regulatory regime in connection with an approximately 124MW wind generating facility.

**Statutory authority:** Public Service Law, sections 2(12), (13), (22), 5(1)(b), 64, 65, 66, 67, 68, 69, 69-a, 70, 71, 72, 72-a, 78, 79, 105-114, 114-a, 115, 117, 118, 119-b and 119-c

**Subject:** Request for a CPCN and a lightened regulatory regime.

**Purpose:** To grant Bluestone's request for a CPCN and a lightened regulatory regime.

**Substance of final rule:** The Commission, on December 17, 2020, adopted an order granting Bluestone Wind, LLC's request for a Certificate of Public Convenience and Necessity and a lightened regulatory regime in connection with an approximately 124 megawatt wind generating facility, located in the Town of Sanford and the Town of Windsor, Broome County, New York, subject to the terms and conditions set forth in the order.

**Final rule as compared with last published rule:** No changes.

**Text of rule may be obtained from:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

**Assessment of Public Comment**  
An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.  
(19-E-0121SA1)

### NOTICE OF ADOPTION

#### Transfer of Water System Assets

**I.D. No.** PSC-52-19-00001-A

**Filing Date:** 2020-12-18

**Effective Date:** 2020-12-18

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** On 12/17/20, the PSC adopted an order approving, with modifications, SUEZ Water New York Inc. (SUEZ) and Heritage Hills Water Works Corporation's petition (Heritage Hills) for SUEZ to acquire 100 percent of the assets of Heritage Hills.

**Statutory authority:** Public Service Law, sections 5, 17, 18, 31, 39, 80, 89-c and 89-h

**Subject:** Transfer of water system assets.

**Purpose:** To approve, with modifications, SUEZ and Heritage Hills' petition for SUEZ to acquire assets of Heritage Hills.

**Substance of final rule:** The Commission, on December 17, 2020, adopted an order approving, with modifications, SUEZ Water New York Inc. (SUEZ) and Heritage Hills Water Works Corporation's petition (Heritage Hills) for SUEZ to acquire 100 percent of the water system assets of Heritage Hills. Within 30 days of the date of closing, SUEZ shall file with the Secretary to the Commission documents showing the acquisition has occurred and all corresponding journal entries related to recording the transaction on its books. Within 30 days of the date of closing, Heritage Hills is directed to file a cancellation supplement cancelling Heritage Hills' tariff schedule P.S.C. No. 3 – Water in its entirety, and the supplement, and Meter Replacement Program (MRP) Surcharge Statement No. 10 contained in that schedule, effective on not less than one day's notice. Within 30 days of the date of closing, SUEZ is directed to file, on not less than three days' notice, to become effective on a temporary basis, tariff revisions to P.S.C. No. 2 – Water to reflect the addition of Heritage Hills' customers, as discussed in the body of the order. The amendments specified in the compliance filing shall not become effective on a permanent basis until approved by the Commission, subject to the terms and conditions set forth in the order.

**Final rule as compared with last published rule:** No changes.

**Text of rule may be obtained from:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

#### Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.  
(19-W-0726SA1)

### NOTICE OF ADOPTION

#### Issuance of Long-Term Debt Securities

**I.D. No.** PSC-31-20-00003-A

**Filing Date:** 2020-12-18

**Effective Date:** 2020-12-18

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** On 12/17/20, the PSC adopted an order authorizing National

Fuel Gas Distribution Corporation (NFG) to issue up to \$300 million of long-term debt securities in one or more transactions, not later than December 31, 2023.

**Statutory authority:** Public Service Law, section 69

**Subject:** Issuance of long-term debt securities.

**Purpose:** To authorize NFG to issue up to \$300 million of long-term debt securities.

**Substance of final rule:** The Commission, on December 17, 2020, adopted an order authorizing National Fuel Gas Distribution Corporation (NFG) to issue up to \$300 million of long-term debt securities in one or more transactions, not later than December 31, 2023. The proceeds from the issuance of securities authorized by the order may be used only for: (a) the acquisition of property, the construction, completion, extension or improvement of NFG's facilities or the improvement or maintenance of NFG's service within New York State (to the extent such expenditures exceed funds originating from credits to the accumulated provision for depreciation, net salvage and accumulated deferred income taxes); (b) for the discharge or lawful refunding of NFG's obligations; or (c) to reimburse NFG's treasury for equivalent moneys expended for those purposes prior to March 31, 2020, provided that NFG has kept its accounts and vouchers of such expenditures in such a manner as to enable us to ascertain the amount of moneys so expended and the purposes for which such expenditures were made. This order replaces the authorization granted in the Order Authorizing Issuance of Securities, issued November 17, 2017, in Case 17-G-0414 and the authorization granted in that proceeding is revoked, subject to the terms and conditions set forth in the order.

**Final rule as compared with last published rule:** No changes.

**Text of rule may be obtained from:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

#### **Assessment of Public Comment**

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-G-0317SA1)

## **NOTICE OF ADOPTION**

### **Submetering of Electricity**

**I.D. No.** PSC-31-20-00011-A

**Filing Date:** 2020-12-18

**Effective Date:** 2020-12-18

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** On 12/17/20, the PSC adopted an order approving 215 West 28th Street Property Owner LLC's (215 West 28th) notice of intent to submeter electricity at 215 West 28th Street, New York, New York.

**Statutory authority:** Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), 6(2), (3), (4), (12) and (14)

**Subject:** Submetering of electricity.

**Purpose:** To approve 215 West 28th's notice of intent to submeter electricity.

**Substance of final rule:** The Commission, on December 17, 2020, adopted an order approving 215 West 28th Property Owner LLC's notice of intent to submeter electricity at 215 West 28th Street, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

**Final rule as compared with last published rule:** No changes.

**Text of rule may be obtained from:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

#### **Assessment of Public Comment**

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0321SA1)

## **NOTICE OF ADOPTION**

### **Transfer of Ownership Interests**

**I.D. No.** PSC-36-20-00005-A

**Filing Date:** 2020-12-18

**Effective Date:** 2020-12-18

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** On 12/17/20, the PSC adopted an order approving Alliance Energy Group, LLC's (Alliance) petition to transfer its membership interests in Alliance Energy Transmissions LLC and Alliance Energy Transmissions-Syracuse, LLC to AET Holdings LLC (AET Holdings).

**Statutory authority:** Public Service Law, sections 2(10), (11), 5(1)(b), (2), 64, 66(1), (13) and 70

**Subject:** Transfer of ownership interests.

**Purpose:** To approve Alliance's petition to transfer its membership interests to AET Holdings.

**Substance of final rule:** The Commission, on December 17, 2020, adopted an order approving Alliance Energy Group, LLC's (Alliance) petition to transfer 100 percent of its membership interests in Alliance Energy Transmissions LLC (AET) and Alliance Energy Transmissions-Syracuse, LLC (AET-Syracuse) to AET Holdings LLC (AET Holdings) or another entity. Within 60 days of the date of issuance of this Order, AET and AET-Syracuse shall file with the Secretary to the Commission confirmation of the date on which the transfers authorized were or will be completed, and shall further identify the final corporate entity to which Alliance transferred or will transfer its interests, being tentatively identified in the petition as AET Holdings, subject to the terms and conditions set forth in the order.

**Final rule as compared with last published rule:** No changes.

**Text of rule may be obtained from:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

#### **Assessment of Public Comment**

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-G-0385SA1)

## **PROPOSED RULE MAKING NO HEARING(S) SCHEDULED**

### **Partial Waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process**

**I.D. No.** PSC-01-21-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a petition filed on December 11, 2020 by Vistra Corp. for a partial waiver of the Commission's December 12, 2019 Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.

**Statutory authority:** Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

**Subject:** Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.

**Purpose:** To consider whether petitioner should be permitted to offer its Home Warranty product to mass market customers.

**Substance of proposed rule:** The Public Service Commission (Commission) is considering a petition filed on December 11, 2020 by Vistra Corp. (Vistra) for a partial waiver of the Commission's Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process, issued on December 12, 2019 (December 2019 Order).

The December 2019 Order, among other things, limited the types of products that energy service companies (ESCOs) can offer to New York mass market customers to those products that: (1) include a guaranteed savings over the utility price, as reconciled on an annual basis; (2) are for a fixed-rate commodity product that is priced at no more than 5% greater than the trailing 12-month average utility supply rate; and, (3) are for a renewably sourced electric commodity product that (a) has a renewable



mix that is at least 50% greater than the ESCO's current Renewable Energy Standard (RES) obligation, and (b) the ESCO complies with the RES locational and delivery requirements when procuring Renewable Energy Credits (RECs) or entering into bilateral contracts for renewable commodity supply. Additionally, the December 2019 Order allowed for an additional product to be offered by Agway Energy Services, LLC (Agway) who provides customers with its EnergyGuard service. The December 2019 Order provided a limited opportunity for other ESCOs to petition the Commission for the opportunity to sell a product/service similar to EnergyGuard.

Vistra requests that the Commission issue a waiver to permit it to offer its home warranty and maintenance product (Warranty Product) to mass market customers in New York. According to Vistra, its Warranty Product is substantially similar to the Agway product already approved by the Commission. Vistra explains that the Warranty Product plan covers customers' heating, ventilation, and air conditioning (HVAC) units, including unknown pre-existing conditions with annual coverage limited to \$6,000; \$1,000 for electrical line repair and \$5,000 for HVAC repair and replacement. Electric line protection claims do not have a deductible, Vistra continues, while HVAC claims have a deductible of \$60 and a per visit cap of \$500. Vistra also claims to provide customers with access to seasonal tune-ups of their HVAC system for preventative maintenance. Vistra explains that the Warranty Product provides 24/7 customer service, and utilizes prescreened and licensed professionals to assist with home repairs and replacements of heating and cooling systems.

According to Vistra, its Warranty Product provides customers with peace of mind and security that should their home heating and cooling equipment fail, someone will be available 24/7 to provide assistance. Additionally, Vistra asserts that because the Commission has already determined that these types of home warranty products are permissible energy related value-added products or services, it should likewise be authorized to offer its Warranty Product.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6517, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SP32)

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

### Changes to PSL Section 66-p Relating to Billing Information for Residential Rental Premises

**I.D. No.** PSC-01-21-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by Village of Rockville Centre to modify its electric tariff schedule regarding changes to PSL section 66-p relating to billing information for residential rental premises.

**Statutory authority:** Public Service Law, sections 65, 66 and 66-p

**Subject:** Changes to PSL Section 66-p relating to billing information for residential rental premises.

**Purpose:** To establish provisions as necessary to effectuate PSL Section 66-p.

**Substance of proposed rule:** The Commission is considering a proposal by the Village of Rockville Centre (the Village) on December 15, 2020, to amend its electric tariff schedule, P.S.C. No. 3. The Village proposes to establish provisions relating to billing information for residential rental prop-

erties in accordance with the recently enacted Public Service Law Section 66-p which became effective on April 18, 2020.

The Village proposes to include language in its electric tariff specifying that the Company shall provide the prospective tenant and landlord or other authorized person of prospective residential premises the total electric charges incurred for the life at such premises, or the preceding two-year period, whichever is shorter, within ten days of receipt of the written request, at no cost to the requestor. The proposed amendments have an effective date of May 1, 2021.

The full text of the proposal and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-M-0029SP19)

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

### A Debt Financing Arrangement with Respect to an Electric Transmission Line Under Development

**I.D. No.** PSC-01-21-00006-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a petition filed by CHPE Properties, Inc. and CHPE LLC requesting authorization to issue debt financing pursuant to section 69 of the Public Service Law.

**Statutory authority:** Public Service Law, sections 5, 64, 65, 66 and 69

**Subject:** A debt financing arrangement with respect to an electric transmission line under development.

**Purpose:** To review the proposed financing and consider whether it is within the public interest.

**Substance of proposed rule:** The New York State Public Service Commission (Commission) is considering a petition filed by CHPE Properties, Inc. and CHPE LLC (collectively, Joint Petitioners) on November 23, 2020 requesting to issue debt financing, which may take the form of bank loans, bonds, or other financial instruments.

The Joint Petitioners explain that they plan to undertake the Champlain Hudson Power Express electric transmission project from Canada to New York City (the Project), which the Commission approved in Case 10-T-0139 on April 18, 2013. The proceeds of the financing would be used primarily to fund construction of the Project, which the Joint Petitioners assert would be developed, financed, constructed, and operated on a merchant basis. Accordingly, the Joint Petitioners assert that there would be no adverse effect on captive retail customers requiring the protection of the Commission's rate regulation and it would be appropriate to apply the reduced scrutiny that the Commission has applied to similar entities that are lightly regulated. Furthermore, the Joint Petitioners request flexibility to modify, without prior approval, the identity of the financing entities, payment terms, and the amount financed, so long as it does not exceed a "maximum amount," which the Joint Petitioners redact from the petition based on the assertion that it constitutes Confidential Information and should thus not be disclosed publicly.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject, or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6517, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0598SP1)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Notice of Intent to Submeter Electricity**

**I.D. No.** PSC-01-21-00007-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering the notice of intent of LOBLO Apartments LLC to submeter electricity at 983 Michigan Avenue, Buffalo, New York.

**Statutory authority:** Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

**Subject:** Notice of intent to submeter electricity.

**Purpose:** To ensure adequate submetering equipment and consumer protections are in place.

**Substance of proposed rule:** The Commission is considering the notice of intent filed by LOBLO Apartments LLC on December 16, 2020, to submeter electricity at a new market-rate rental building located at 983 Michigan Avenue, Buffalo, New York, 14203, located in the territory of Niagara Mohawk Power Corporation d/b/a National Grid (National Grid).

In the notice of intent, LOBLO Apartments LLC requests authorization to take electric service from National Grid and then distribute and meter that electricity to its residents. Once approved by the Commission, submetering of electricity to residents is allowed, so long as it complies with the protections and requirements of the Commission's regulations in 16 NYCRR Part 96.

The full text of the notice of intent and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0660SP1)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Revision of Certain Delivery Rates for Electric Service**

**I.D. No.** PSC-01-21-00008-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a petition by Niagara Mohawk Power Corporation d/b/a National Grid to revise certain delivery rates for Rate Year 4 under National Grid's currently effective rate plan.

**Statutory authority:** Public Service Law, sections 65 and 66

**Subject:** The revision of certain delivery rates for electric service.

**Purpose:** To ensure safe and reliable service for customers at just and reasonable rates.

**Substance of proposed rule:** The Commission is considering a petition filed by Niagara Mohawk Power Corporation d/b/a National Grid (National Grid or the Company) on October 8, 2020, to revise certain delivery rates in for Rate Year 4 under the Company's currently effective rate plan, which was adopted by the Commission on March 15, 2018 in its Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans (Rate Order).

The Rate Order adopted a Joint Proposal establishing rates for a three year period, with Rate Year 1 ending on March 31, 2019, Rate Year 2 ending on March 31, 2020, and Rate Year 3 slated to end on March 31, 2021. The Rate Order also adopted rates for some but not all service categories for the subsequent 12 month period (i.e., Rate Year 4), in the event the Company did not after issuance of the Rate Order seek new rates in a subsequent petition to be effective April 1, 2021. National Grid has since filed a petition for new rates to be effective July 1, 2021 in Case 20-E-0380. The petition seeks Commission authorization to revise certain rates for Rate Year 4, to be effective April 1, 2021, with the expectation that the rates to be set in Case 20-E-0380, which are anticipated to become effective on July 1, 2021, would supersede the specified Rate Year 4 rates.

Specifically, the petition seeks Commission authorization to revise the Company's delivery rates in the P.S.C. No. 220 - Electricity (Electric Tariff) for the following service classifications: (i) Service Classification No. 1, Special Provision L, Residential Time of Use Delivery and Commodity Rate; (ii) Service Classification No. 7, Sale of Standby Service to Customers; and (iii) Empire Zone Rider and Excelsior Jobs Program pursuant to Rule 34 of the Electric Tariff. Rate Year 4 rates for these specific service classifications were omitted from the Joint Proposal.

The Company also proposes to revise Rate Year 4 delivery rates and facility charges for the service classes in the Company's P.S.C. No. 214 - Schedule for Electric Service Street, Highway, Roadway and Other Outdoor Lighting (Outdoor Lighting Tariff). As with the specific Electric Tariff service classifications noted above, Rate Year 4 delivery rates and facility charges under the Outdoor Lighting Tariff were not reflected in the Joint Proposal. The proposed amendments for the Electric and Outdoor Lighting Tariffs have an effective date of April 1, 2021.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-E-0238SP12)

## HEARINGS SCHEDULED FOR PROPOSED RULE MAKINGS

Agency I.D. No.	Subject Matter	Location—Date—Time
<b>Lake George Park Commission</b>		
LGP-43-20-00005-P .....	Stream Corridor Protection Regulations for the Lake George Park	Fort William Henry, 48 Canada St., Lake George, NY—January 12, 2021, 4:00 p.m.
<b>Public Service Commission</b>		
PSC-42-20-00006-P .....	Proposed Major Rate Increase in National Grid's Delivery Revenues of Approximately \$41.8 Million (or 9.8% in Total Revenues)	Department of Public Service, 19th Fl. Board Rm., 3 Empire State Plaza, Albany, NY—January 6, 2021, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)* *On occasion, the evidentiary hearing date may be rescheduled or postponed. In that event, notification of any subsequent scheduling changes will be available at the DPS website ( <a href="http://www.dps.ny.gov">www.dps.ny.gov</a> ) under Case 20-G-0381
PSC-42-20-00009-P .....	Proposed Major Rate Increase in National Grid's Delivery Revenues of Approximately \$100.4 Million (or 3.2% in Total Revenues)	Department of Public Service, 19th Fl. Board Rm., 3 Empire State Plaza, Albany, NY—January 6, 2021, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)* *On occasion, the evidentiary hearing date may be rescheduled or postponed. In that event, public notification of any subsequent scheduling changes will be available at the DPS website ( <a href="http://www.dps.ny.gov">www.dps.ny.gov</a> ) under Case 20-E-0380
PSC-45-20-00004-P .....	Major Gas Rate Filing	Department of Public Service, 19 Fl. Board Rm., 3 Empire State Plaza, Albany, NY—February 16, 2021, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)* *On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website ( <a href="http://www.dps.ny.gov">www.dps.ny.gov</a> ) under Case 20-E-0429
PSC-45-20-00005-P .....	Major Electric Rate Filing	Department of Public Service, 19 Fl. Board Rm., 3 Empire State Plaza, Albany, NY—February 16, 2021, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)* *On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website ( <a href="http://www.dps.ny.gov">www.dps.ny.gov</a> ) under Case 20-E-0428
PSC-46-20-00005-P .....	Recommendations of the DPS Staff Report to Improve Hudson Valley Water's Service	The Public Hearing will be held online and by telephone. Details for access will be published via Notice at the DPS website ( <a href="http://www.dps.ny.gov">www.dps.ny.gov</a> ) under Case 20-W-0477—January 19, 2021, 4:00 p.m.* *On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website ( <a href="http://www.dps.ny.gov">www.dps.ny.gov</a> ) under Case 20-W-0477

## ACTION PENDING INDEX

The action pending index is a list of all proposed rules which are currently being considered for adoption. A proposed rule is added to the index when the notice of proposed rule making is first published in the *Register*. A proposed rule is removed from the index when any of the following occur: (1) the proposal is adopted as a permanent rule; (2) the proposal is rejected and withdrawn from consideration; or (3) the proposal's notice expires.

Most notices expire in approximately 12 months if the agency does not adopt or reject the proposal within that time. The expiration date is printed in the second column of the action pending index. Some notices, however, never expire. Those notices are identified by the word "exempt" in the second column. Actions pending for one year or more are preceded by an asterisk(\*).

For additional information concerning any of the proposals

listed in the action pending index, use the identification number to locate the text of the original notice of proposed rule making. The identification number contains a code which identifies the agency, the issue of the *Register* in which the notice was printed, the year in which the notice was printed and the notice's serial number. The following diagram shows how to read identification number codes.

Agency code	Issue number	Year published	Serial number	Action Code
<b>AAM</b>	<b>01</b>	<b>12</b>	<b>00001</b>	<b>P</b>

Action codes: P — proposed rule making; EP — emergency and proposed rule making (expiration date refers to proposed rule); RP — revised rule making

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
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### AGRICULTURE AND MARKETS, DEPARTMENT OF

AAM-12-20-00006-P	04/01/21	Calibrating and testing of certain weights and measures standards and devices.	To allow the Dept. to increase the fees it charges in calibrating and testing certain weights & measures standards and devices.
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### ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OFFICE OF

ASA-19-20-00001-RP	05/13/21	General service standards applicable to outpatient substance use disorder programs	To set-forth the minimum regulatory requirements for certified outpatient substance use disorder treatment programs.
ASA-28-20-00013-P	07/15/21	Patient Rights	To set-forth the minimum regulatory requirements for patient rights in OASAS certified, funded or otherwise authorized programs
ASA-28-20-00014-P	07/15/21	Specialized Services	To replace the term "chemical dependence" with "addiction"
ASA-28-20-00016-P	07/15/21	Designated Services	To set-forth the minimum regulatory requirements for certified programs to seek an Office designation

### AUDIT AND CONTROL, DEPARTMENT OF

AAC-43-20-00004-P	10/28/21	Budgets and Financial Plan Format of Public Authorities	Conform regulations related to the submission of annual budgets and financial plans to the Public Authorities Reform Act of 2009
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### CHILDREN AND FAMILY SERVICES, OFFICE OF

*CFS-46-19-00002-RP	03/03/21	Behavioral health services, elimination of room isolation and authority to operate de-escalation rooms	To implement standards for behavioral health services and the operation of de-escalation rooms and to eliminate room isolation
CFS-04-20-00009-P	01/28/21	Host Family Homes	The proposed regulations would establish standards for the approval and administration of host family homes.



**Action Pending Index****NYS Register/January 6, 2021**

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CHILDREN AND FAMILY SERVICES, OFFICE OF</b>			
CFS-46-20-00001-P	11/18/21	Amendment to community guardian program regarding who can complete the annual evaluation or examination	Amendment to community guardian program regarding who can complete the annual evaluation or examination
CFS-49-20-00006-EP	12/09/21	Maintenance reimbursement for residential CSE programs when a student has been absent from the program for more than 15 days.	Remove an existing regulatory barrier that precludes maintenance reimbursement for residential CSE programs.
CFS-51-20-00003-P	12/23/21	Outlining the procedures for requesting and conducting criminal history disqualification reviews	Outlining the procedures for requesting and conducting criminal history disqualification reviews
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-03-20-00003-P	04/01/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-03-20-00004-P	04/01/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-03-20-00005-P	04/01/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-03-20-00006-P	04/01/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-03-20-00007-P	04/01/21	Jurisdictional Classification	To delete positions from and classify positions in the exempt class
CVS-06-20-00001-P	04/01/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-06-20-00002-P	04/01/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-06-20-00003-P	04/01/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-06-20-00004-P	04/01/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-06-20-00005-P	04/01/21	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-06-20-00006-P	04/01/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-06-20-00007-P	04/01/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class and to delete positions from the non-competitive class
CVS-06-20-00008-P	04/01/21	Jurisdictional Classification	To delete a subheading and positions from and to classify a subheading and positions in the exempt and non-competitive classes
CVS-13-20-00002-P	04/01/21	Supplemental military leave benefits	To extend the availability of supplemental military leave benefits for certain New York State employees until December 31, 2020
CVS-13-20-00009-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt class

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-13-20-00010-P	04/01/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-13-20-00011-P	04/01/21	Jurisdictional Classification	To delete positions from the exempt class
CVS-13-20-00012-P	04/01/21	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-13-20-00013-P	04/01/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-13-20-00014-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00015-P	04/01/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-13-20-00016-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00017-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00018-P	04/01/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-13-20-00019-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00020-P	04/01/21	Jurisdictional Classification	To delete positions in the non-competitive class
CVS-13-20-00021-P	04/01/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-13-20-00022-P	04/01/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-13-20-00023-P	04/01/21	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-13-20-00024-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt and the non-competitive classes.
CVS-13-20-00025-P	04/01/21	Jurisdictional Classification	To delete a position from and classify positions in the non-competitive class
CVS-18-20-00004-P	05/06/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-18-20-00005-P	05/06/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-18-20-00006-P	05/06/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-18-20-00007-P	05/06/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-18-20-00008-P	05/06/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-18-20-00009-P	05/06/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-18-20-00010-P	05/06/21	Jurisdictional Classification	To delete positions from the non-competitive class

**Action Pending Index****NYS Register/January 6, 2021**

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-24-20-00002-P	06/17/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-24-20-00003-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00004-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00005-P	06/17/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-24-20-00006-P	06/17/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-24-20-00007-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00008-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00009-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00010-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-28-20-00004-P	07/15/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-28-20-00005-P	07/15/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-28-20-00006-P	07/15/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-28-20-00007-P	07/15/21	Jurisdictional Classification	To delete a position from the exempt class
CVS-28-20-00008-P	07/15/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-28-20-00009-P	07/15/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-28-20-00010-P	07/15/21	Jurisdictional Classification	To classify positions in the non-competitive class.
CVS-28-20-00011-P	07/15/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-28-20-00012-P	07/15/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-32-20-00003-P	08/12/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-32-20-00004-P	08/12/21	Jurisdictional Classification	To classify positions in the exempt and the non-competitive classes
CVS-32-20-00005-P	08/12/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-32-20-00006-P	08/12/21	Jurisdictional Classification	To classify a position in the exempt class

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-41-20-00002-P	10/14/21	Jurisdictional Classification	To delete positions from and to classify a subheading and positions in the exempt class
CVS-41-20-00003-P	10/14/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-41-20-00004-P	10/14/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-41-20-00005-P	10/14/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-41-20-00006-P	10/14/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-41-20-00007-P	10/14/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-49-20-00002-P	12/09/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-49-20-00003-P	12/09/21	Jurisdictional Classification	To delete positions from and classify positions in the exempt class.
CVS-49-20-00004-P	12/09/21	Jurisdictional Classification	To classify positions in the exempt class.
CVS-49-20-00005-P	12/09/21	Jurisdictional Classification	To classify a position in the non-competitive class
<b>CORRECTION, STATE COMMISSION OF</b>			
*CMC-35-19-00002-P	04/01/21	Disciplinary and administrative segregation of inmates in special housing.	Prohibit the segregation of vulnerable inmates, and to standardize allowable uses and duration of special housing segregation.
<b>CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF</b>			
CCS-34-20-00001-P	08/26/21	Family Reunion Program	To clarify for logic and consistency, and make additional changes to the current Family Reunion Program
<b>CRIMINAL JUSTICE SERVICES, DIVISION OF</b>			
*CJS-30-19-00010-ERP	04/01/21	Use of Force	Set forth use of force reporting and recordkeeping procedures
CJS-19-20-00010-P	05/13/21	Part 364 - Conditional release conditions.	Conform to the recent changes made by the Legislature by removing the term "gravity knife".
CJS-44-20-00002-P	11/04/21	Intake for Article 7 (PINS)	Update existing Rule to reflect services which will be performed by Probation departments
<b>ECONOMIC DEVELOPMENT, DEPARTMENT OF</b>			
EDV-48-20-00001-P	12/02/21	Employee Training Incentive Program	To update the administrative processes for the ETIP program

**Action Pending Index****NYS Register/January 6, 2021**

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>EDUCATION DEPARTMENT</b>			
*EDU-17-19-00008-P	02/01/21	To require study in language acquisition and literacy development of English language learners in certain teacher preparation	To ensure that newly certified teachers enter the workforce fully prepared to serve our ELL population
*EDU-27-19-00010-P	02/01/21	Substantially Equivalent Instruction for Nonpublic School Students	Provide guidance to local school authorities to assist them in fulfilling their responsibilities under the Compulsory Ed Law
EDU-11-20-00013-RP	03/23/21	Special Education Impartial Hearing Officers and the Special Education Due Process System Procedures	To address volume of special education due process complaints in the New York City due process system
EDU-16-20-00002-ERP	04/22/21	Addressing the COVID-19 Crisis	To provide flexibility for certain regulatory requirements in response to the COVID-19 crisis
EDU-20-20-00008-ERP	05/20/21	Addressing the COVID-19 Crisis	To provide flexibility for certain regulatory requirements in response to the COVID-19 crisis
EDU-30-20-00005-RP	07/29/21	Creating a Safety Net for the School Building Leader Assessment	To create a safety net for the School Building Leader Assessment
EDU-48-20-00003-P	12/02/21	Regional Bibliographic Data Bases and Interlibrary Resources Sharing Program	Update and clarify certain terminology related to the use of technology in libraries and to reflect new technologies.
EDU-52-20-00018-EP	12/30/21	Addressing the COVID-19 crisis	To address issues resulting from the COVID-19 crisis and to provide regulatory flexibility due to the COVID-19 crisis
EDU-52-20-00019-P	12/30/21	Requirements for Awarding the NYS Seal of Biliteracy	To update the requirements for awarding the NYS Seal of Biliteracy
EDU-52-20-00020-P	12/30/21	Content Core Requirement in Computer Science Teacher Preparation Programs	To make the content core requirement for the Computer Science certificate aligned with the NYS Computer Science Standards
EDU-52-20-00021-P	12/30/21	Conferral of the Degree of Doctor of Medicine (M.D.) by the Board of Regents	To conform the law with the statutory requirements for issuance of an M.D. to foreign-educated applicants
EDU-52-20-00022-P	12/30/21	Implementation of the Crown Act	To implement Chapter 95 of the Laws of 2019, known as the Crown Act
EDU-52-20-00023-EP	12/30/21	Instruction to prevent child sexual exploitation and child sexual abuse in grades K-8	Implementation of chapter 187 of the Laws of 2019
EDU-52-20-00024-P	12/30/21	Uniform Violent or Disruptive Incident Reporting (VADIR) System, Also Known as the School Safety and Educational Climate Report	Update the definitions of violent and disruptive incidents for purposes of the VADIR and update the School Violence Index
EDU-01-21-00002-EP	01/06/22	Addressing the COVID-19 crisis and planning for the reopening of schools	To provide regulatory flexibility due to the COVID-19 crisis and to plan for the reopening of schools

**ENVIRONMENTAL CONSERVATION, DEPARTMENT OF**

*ENV-36-19-00003-P	04/01/21	Stationary Combustion Installations	Update permit references, rule citations, monitoring, record keeping, reporting requirements, and lower emission standards.
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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>ENVIRONMENTAL CONSERVATION, DEPARTMENT OF</b>			
*ENV-37-19-00003-RP	04/01/21	Clarifying determination of jurisdiction under the Endangered and Threatened Fish and Wildlife regulations	To improve the review of projects by removing some project types that are known not to cause harm from the review stream
ENV-05-20-00002-P	04/10/21	Sulfur-in Fuel Limitations	Limit sulfur in liquid and solid fuels throughout NYS
ENV-06-20-00018-P	04/16/21	The repeal and replacement of 6 NYCRR Part 230 Gasoline Dispensing Sites and Transport Vehicles	To further reduce harmful volatile organic compounds (VOCs) emitted into the atmosphere.
ENV-06-20-00019-P	04/16/21	Consumer Products	Reduce Volatile Organic Compound emissions from Consumer Products - those products used in the average household.
ENV-06-20-00020-P	04/16/21	New Source Review requirements for proposed new major facilities and major modifications to existing facilities.	To conform to federal NSR rule requirements and related court rulings, correct typographical errors, and clarify rule language.
ENV-12-20-00001-EP	03/25/21	Regulations governing commercial fishing of Tautog (blackfish).	To revise regulations concerning the commercial harvest of Tautog in New York State.
ENV-17-20-00005-P	04/29/21	The above referenced Parts make up the Department's air pollution control permitting program.	The purpose of this rulemaking is to improve the clarity and consistency of the Department's air pollution permitting program
ENV-33-20-00005-P	08/19/21	Repeal of Section 485.1	To remove outdated and redundant references in the Department's regulations
ENV-36-20-00002-P	09/09/21	Deer Hunting Seasons	Establish a bow and muzzleloader deer hunting season in the Southern Zone during the Christmas and New Year holiday week
ENV-42-20-00003-EP	10/21/21	Sanitary Condition of Shellfish Lands	To reclassify underwater shellfish lands to protect public health
ENV-47-20-00004-P	11/25/21	Inland trout stream fishing regulations	To revise and standardize inland trout stream fishing regulations
ENV-47-20-00005-P	11/25/21	Sportfishing (freshwater) and associated activities	To revise and simplify sportfishing regulations and associated activities
ENV-01-21-00003-P	01/06/22	Regulations governing recreational fishing for striped bass	To require circle hooks when fishing recreationally for striped bass using bait
<b>FINANCIAL SERVICES, DEPARTMENT OF</b>			
*DFS-17-16-00003-P	exempt	Plan of Conversion by Commercial Travelers Mutual Insurance Company	To convert a mutual accident and health insurance company to a stock accident and health insurance company
*DFS-25-18-00006-P	exempt	Plan of Conversion by Medical Liability Mutual Insurance Company	To convert a mutual property and casualty insurance company to a stock property and casualty insurance company
*DFS-43-19-00017-P	04/01/21	Independent Dispute Resolution for Emergency Services and Surpsise Bills	To require notices and consumer disclosure information related to surprise bills and bills for emergency service to be provided

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>FINANCIAL SERVICES, DEPARTMENT OF</b>			
DFS-36-20-00007-P	09/09/21	Superintendent's Regulations: Information Subject to Confidential Treatment	Provide rules concerning publication or disclosure of information subject to confidential treatment
DFS-45-20-00007-P	11/10/21	Office of Pharmacy Benefits	To establish the Office of Pharmacy Benefits and rules for the Drug Accountability Board
DFS-49-20-00011-P	12/09/21	Credit for Reinsurance	To conform to covered agreements entered into between the US and EU and the US and UK, and implement NAIC models.
DFS-52-20-00001-P	12/30/21	Principle-Based Reserving	To prescribe minimum principle-based valuation standards
<b>GAMING COMMISSION, NEW YORK STATE</b>			
SGC-34-20-00009-P	08/26/21	Qualification time in harness racing	To improve harness pari-mutuel wagering and generate reasonable revenue for the support of government
SGC-40-20-00001-P	10/07/21	To expressly permit veterinary technicians to practice in horse racing	To preserve the safety and integrity of pari-mutuel racing while generating reasonable revenue for the support of government
SGC-44-20-00012-P	11/04/21	Allowing licensed lottery courier services to purchase and deliver lottery tickets to customers	To facilitate the sale of lottery tickets to generate additional revenue for education
SGC-50-20-00006-P	12/16/21	Participation in the management and operation of charitable games of chance	To maintain integrity and accountability in the management and operation of games of chance
SGC-50-20-00007-P	12/16/21	Contactless payment methods for chances in charitable gaming	To promote public health and support of organizations authorized to operate games of chance
<b>HEALTH, DEPARTMENT OF</b>			
*HLT-14-94-00006-P	exempt	Payment methodology for HIV/AIDS outpatient services	To expand the current payment to incorporate pricing for services
*HLT-36-19-00006-P	04/01/21	Limits on Executive Compensation	Removes "Soft Cap" prohibition on covered executive salaries.
*HLT-40-19-00004-P	04/01/21	Drug Take Back	To implement the State's drug take back program to provide for the safe disposal of drugs
*HLT-46-19-00003-P	04/01/21	Tanning Facilities	To prohibit the use of indoor tanning facilities by individuals less than 18 years of age
*HLT-47-19-00008-P	04/01/21	Hospital Medical Staff - Limited Permit Holders	To repeal extra years of training required for limited permit holders to work in New York State hospitals.
*HLT-51-19-00001-P	04/01/21	Women, Infants and Children (WIC) Program	To support implementation of eWIC; clarify rules for violations, penalties & hearings & conform vendor authorization criteria.
HLT-53-19-00001-P	01/02/21	Prohibition on the Sale of Electronic Liquids with Characterizing Flavors	To prohibit the sale of electronic liquids with characterizing flavors



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>HEALTH, DEPARTMENT OF</b>			
HLT-53-19-00012-P	04/01/21	Consumer Directed Personal Assistance Program Reimbursement	To establish a program to pay home care services & establish a methodology framework for the payment of FI administrative costs.
HLT-04-20-00003-P	04/01/21	Applied Behavior Analysis	To include Applied Behavior Analysis in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit.
HLT-04-20-00011-P	04/01/21	Nursing Home Case Mix Rationalization	To authorize the Department of Health to change the case mix acuity process for all nursing homes.
HLT-11-20-00003-P	04/01/21	Adult Day Health Care (ADHC)	To allow for reimbursement of real property leases in certain situations when used for operations of an ADHC program
HLT-27-20-00006-P	07/08/21	Medicaid Managed Care State Fair Hearings and External Appeals Processes and Standards	To address & clarify rules of procedure & presentation of evidence for Medicaid managed care fair hearings & external appeals
HLT-28-20-00019-P	07/15/21	Personal Care Services (PCS) and Consumer Directed Personal Assistance Program (CDPAP)	To implement a revised assessment process and eligibility criteria for PCS and CDPAP
HLT-31-20-00012-EP	exempt	Hospital Non-comparable Ambulance Acute Rate Add-on	Prevents duplicate claiming by Article 28 hospitals for the ambulance add-on regarding participation in the program
HLT-38-20-00006-P	09/23/21	Medicaid Transportation Program	Medicaid payment standards for emergency ambulance providers participating in an Emergency Triage, Treat & Transport (ET3) model
HLT-38-20-00008-EP	09/23/21	Revise Requirements for Collection of Blood Components	To facilitate the availability of human blood components while maintaining safety
HLT-39-20-00003-EP	09/30/21	Reduce Hospital Capital Rate Add-on and Reduce Hospital Capital Reconciliation Payment	To include a 5 percent reduction to the budgeted and actual capital add-on in Article 28 hospital inpatient reimbursement rates
HLT-40-20-00002-EP	10/07/21	Hospital Indigent Care Pool Payment Methodology	To develop an indigent care distribution methodology for calendar years through 2022
HLT-45-20-00002-P	11/10/21	Cannabinoid Hemp	To create a licensing framework for cannabinoid hemp processors and cannabinoid hemp retailers

**HOUSING AND COMMUNITY RENEWAL, DIVISION OF**

*HCR-21-19-00019-P	04/01/21	Low-Income Housing Qualified Allocation Plan	To amend definitions, threshold criteria and application scoring for the allocation of flow-income housing tax credits.
HCR-26-20-00012-EP	09/09/21	Schedule of Reasonable Costs for Major Capital Improvements in rent regulated housing accommodations	Provide a schedule of reasonable costs for Major Capital Improvements in rent regulated housing accommodations

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>HOUSING FINANCE AGENCY</b>			
*HFA-21-19-00020-P	04/01/21	Low-Income Housing Qualified Allocation Plan	To amend definitions, threshold criteria and application scoring for the allocation of low-income housing tax credits
<b>JOINT COMMISSION ON PUBLIC ETHICS, NEW YORK STATE</b>			
JPE-28-20-00031-RP	07/15/21	Source of funding reporting	Clarifying amendments to Source of Funding reporting
JPE-28-20-00032-RP	07/15/21	Amendments to the lobbying regulations	To clarify the lobbying regulations that implement the provisions of the Lobbying Act
<b>LABOR, DEPARTMENT OF</b>			
*LAB-46-19-00004-P	04/01/21	NY State Public Employees Occupational Safety and Health Standards	To incorporate by reference updates to OSHA standards into the NY State Public Employee Occupational Safety and Health Standards
LAB-49-20-00012-P	12/09/21	Sick Leave Requirements	To provide definitions and standards for the sick leave requirements contained in Section 196-b of the Labor Law
<b>LAKE GEORGE PARK COMMISSION</b>			
LGP-29-20-00006-P	09/22/21	Amendment of Stormwater Regulations within the Lake George Park	To more adequately control and minimize the pollutants found in stormwater runoff from going into Lake George
LGP-43-20-00005-P	01/12/22	Stream corridor protection regulations for the Lake George Park	To establish permit requirements and standards for the protection of stream corridors in the Lake George Park
<b>LAW, DEPARTMENT OF</b>			
LAW-18-20-00002-P	05/06/21	Designation of a Privacy Officer	Removal of a named Privacy Officer., along with their contact information
<b>LONG ISLAND POWER AUTHORITY</b>			
*LPA-08-01-00003-P	exempt	Pole attachments and related matters	To approve revisions to the authority's tariff
*LPA-41-02-00005-P	exempt	Tariff for electric service	To revise the tariff for electric service
*LPA-04-06-00007-P	exempt	Tariff for electric service	To adopt provisions of a ratepayer protection plan
*LPA-03-10-00004-P	exempt	Residential late payment charges	To extend the application of late payment charges to residential customers
*LPA-15-18-00013-P	exempt	Outdoor area lighting	To add an option and pricing for efficient LED lamps to the Authority's outdoor area lighting
*LPA-37-18-00013-P	exempt	The net energy metering provisions of the Authority's Tariff for Electric Service	To implement PSC guidance increasing eligibility for value stack compensation to larger projects

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>LONG ISLAND POWER AUTHORITY</b>			
*LPA-37-18-00017-P	..... exempt	The treatment of electric vehicle charging in the Authority's Tariff for Electric Service.	To effectuate the outcome of the Public Service Commission's proceeding on electric vehicle supply equipment.
*LPA-37-18-00018-P	..... exempt	The treatment of energy storage in the Authority's Tariff for Electric Service.	To effectuate the outcome of the Public Service Commission's proceeding on the NY Energy Storage Roadmap.
LPA-09-20-00010-P	..... exempt	To update and implement latest requirements for ESCOs proposing to do business within the Authority's service territory.	To strengthen customer protections and be consistent with Public Service Commission orders on retail energy markets.
LPA-28-20-00033-EP	..... exempt	LIPA's late payment charges, reconnection charges, and low-income customer discount enrollment	To allow waiver of late payment and reconnection charges and extend the grace period for re-enrolling in customer bill discounts
LPA-37-20-00008-P	..... exempt	The Authority's annual budget, as reflected in the rates and charges in the Tariff for Electric Service	To update the Tariff to implement the Authority's annual budget and corresponding rate adjustments
LPA-37-20-00009-P	..... exempt	Consolidated billing for community distributed generation	To modify the Tariff to offer consolidated billing options for community distributed generation consistent with the NY PSC
LPA-37-20-00010-P	..... exempt	To modify the RDM and DSA to address the unforeseen impact of COVID-19	To modify the Tariff to mitigate high bill impacts and allow for additional expense recovery related to a state of emergency
LPA-37-20-00011-P	..... exempt	New optional TOU rates as proposed in PSEG Long Island's 2018 Utility 2.0 Filing and subsequent filing updates	To incorporate best practices in TOU rate design, reduce peak load, and offer customers new rate options
LPA-37-20-00012-P	..... exempt	The Authority's implementation of PSL § 66-p in the Tariff for Electric Service	To update the Tariff to provide access to historical electric charges billed to a rental property
LPA-37-20-00013-EP	..... exempt	The terms of deferred payment agreements available to LIPA's commercial customers	To expand eligibility for and ease the terms of deferred payment agreements for LIPA's commercial customers
<b>LONG ISLAND RAILROAD COMPANY</b>			
LIR-39-20-00005-ERP	..... 09/30/21	Requiring wearing masks over the nose and mouth when using terminals, stations, and trains operated by Long Island Rail Road	To safeguard the public health and safety on terminals, stations and trains operated by Long Island Rail Road
<b>MANHATTAN AND BRONX SURFACE TRANSIT OPERATING AUTHORITY</b>			
MBA-39-20-00007-EP	..... 09/30/21	Requiring mask wearing covering the nose and mouth when using facilities and conveyances operated by the MaBSTOA	To safeguard the public health and safety by amending existing rules to require use of masks when using the transit system
<b>MENTAL HEALTH, OFFICE OF</b>			
OMH-42-20-00011-EP	..... 10/21/21	Comprehensive Psychiatric Emergency Programs	To provide clarify and provide uniformity relating to CPEPs and to implement Chapter 58 of the Laws of 2020

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>METRO-NORTH COMMUTER RAILROAD</b>			
MCR-39-20-00004-EP	09/30/21	Requiring mask wearing covering the nose and mouth when using terminals, stations, and trains operated by Metro-North Railroad	To safeguard the public health and safety by amending the rules to require use of masks when using Metro-North facilities
<b>METROPOLITAN TRANSPORTATION AGENCY</b>			
MTA-39-20-00009-EP	09/30/21	Requiring mask wearing covering the nose and mouth when using the facilities and conveyances operated by MTA Bus Company	To safeguard the public health and safety by amending rules to require use of masks when using MTA Bus facilities and conveyance
<b>NEW YORK CITY TRANSIT AUTHORITY</b>			
NTA-39-20-00006-EP	09/30/21	Requiring mask wearing covering the nose and mouth when using facilities and conveyances operated by NYC Transit Authority	To safeguard the public health and safety by amending existing rules to require use of masks when using the transit system
<b>NIAGARA FALLS WATER BOARD</b>			
*NFW-04-13-00004-EP	exempt	Adoption of Rates, Fees and Charges	To pay for the increased costs necessary to operate, maintain and manage the system, and to achieve covenants with bondholders
*NFW-13-14-00006-EP	exempt	Adoption of Rates, Fees and Charges	To pay for increased costs necessary to operate, maintain and manage the system and to achieve covenants with the bondholders
<b>NIAGARA FRONTIER TRANSPORTATION AUTHORITY</b>			
NFT-39-20-00023-P	09/30/21	Procurement Guidelines of the Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc	To amend procurement guidelines to reflect changes in law and clarifying language
<b>OGDENSBURG BRIDGE AND PORT AUTHORITY</b>			
*OBA-33-18-00019-P	exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit.
*OBA-07-19-00019-P	exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit
<b>PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR</b>			
PDD-37-20-00004-ERP	09/16/21	Day Habilitation Duration	to help providers maintain capacity to operate during the public health emergency
PDD-49-20-00001-P	12/09/21	Medication regimen review	Change from a semi-annual review to an annual review. Increased flexibility for providers
<b>POWER AUTHORITY OF THE STATE OF NEW YORK</b>			
*PAS-01-10-00010-P	exempt	Rates for the sale of power and energy	Update ECSB Programs customers' service tariffs to streamline them/include additional required information
PAS-41-20-00009-P	exempt	Rates for the Sale of Power and Energy	To align rates and costs



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-09-99-00012-P	..... exempt	Transfer of books and records by Citizens Utilities Company	To relocate Ogden Telephone Company's books and records out-of-state
*PSC-15-99-00011-P	..... exempt	Electronic tariff by Woodcliff Park Corp.	To replace the company's current tariff with an electronic tariff
*PSC-12-00-00001-P	..... exempt	Winter bundled sales service election date by Central Hudson Gas & Electric Corporation	To revise the date
*PSC-44-01-00005-P	..... exempt	Annual reconciliation of gas costs by Corning Natural Gas Corporation	To authorize the company to include certain gas costs
*PSC-07-02-00032-P	..... exempt	Uniform business practices	To consider modification
*PSC-36-03-00010-P	..... exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-40-03-00015-P	..... exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process
*PSC-41-03-00010-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-41-03-00011-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-44-03-00009-P	..... exempt	Retail access data between jurisdictional utilities	To accommodate changes in retail access market structure or commission mandates
*PSC-02-04-00008-P	..... exempt	Delivery rates for Con Edison's customers in New York City and Westchester County by the City of New York	To rehear the Nov. 25, 2003 order
*PSC-06-04-00009-P	..... exempt	Transfer of ownership interest by SCS Energy LLC and AE Investors LLC	To transfer interest in Steinway Creek Electric Generating Company LLC to AE Investors LLC
*PSC-10-04-00005-P	..... exempt	Temporary protective order	To consider adopting a protective order
*PSC-10-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue	To amend the agreement
*PSC-14-04-00008-P	..... exempt	Submetering of natural gas service to industrial and commercial customers by Hamburg Fairgrounds	To submeter gas service to commercial customers located at the Buffalo Speedway
*PSC-15-04-00022-P	..... exempt	Submetering of electricity by Glenn Gardens Associates, L.P.	To permit submetering at 175 W. 87th St., New York, NY
*PSC-21-04-00013-P	..... exempt	Verizon performance assurance plan by Metropolitan Telecommunications	To clarify the appropriate performance level
*PSC-22-04-00010-P	..... exempt	Approval of new types of electricity meters by Powell Power Electric Company	To permit the use of the PE-1250 electronic meter
*PSC-22-04-00013-P	..... exempt	Major gas rate increase by Consolidated Edison Company of New York, Inc.	To increase annual gas revenues
*PSC-22-04-00016-P	..... exempt	Master metering of water by South Liberty Corporation	To waive the requirement for installation of separate water meters

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-25-04-00012-P	..... exempt	Interconnection agreement between Frontier Communications of Ausable Valley, Inc., et al. and Sprint Communications Company, L.P.	To amend the agreement
*PSC-27-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-27-04-00009-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-28-04-00006-P	..... exempt	Approval of loans by Dunkirk & Fredonia Telephone Company and Cassadaga Telephone Corporation	To authorize participation in the parent corporation's line of credit
*PSC-31-04-00023-P	..... exempt	Distributed generation service by Consolidated Edison Company of New York, Inc.	To provide an application form
*PSC-34-04-00031-P	..... exempt	Flat rate residential service by Emerald Green Lake Louise Marie Water Company, Inc.	To set appropriate level of permanent rates
*PSC-35-04-00017-P	..... exempt	Application form for distributed generation by Orange and Rockland Utilities, Inc.	To establish a new supplementary application form for customers
*PSC-43-04-00016-P	..... exempt	Accounts receivable by Rochester Gas and Electric Corporation	To include in its tariff provisions for the purchase of ESCO accounts receivable
*PSC-46-04-00012-P	..... exempt	Service application form by Consolidated Edison Company of New York, Inc.	To revise the form and make housekeeping changes
*PSC-46-04-00013-P	..... exempt	Rules and guidelines governing installation of metering equipment	To establish uniform statewide business practices
*PSC-02-05-00006-P	..... exempt	Violation of the July 22, 2004 order by Dutchess Estates Water Company, Inc.	To consider imposing remedial actions against the company and its owners, officers and directors
*PSC-09-05-00009-P	..... exempt	Submetering of natural gas service by Hamlet on Olde Oyster Bay	To consider submetering of natural gas to a commercial customer
*PSC-14-05-00006-P	..... exempt	Request for deferred accounting authorization by Freeport Electric Inc.	To defer expenses beyond the end of the fiscal year
*PSC-18-05-00009-P	..... exempt	Marketer Assignment Program by Consolidated Edison Company of New York, Inc.	To implement the program
*PSC-20-05-00028-P	..... exempt	Delivery point aggregation fee by Allied Frozen Storage, Inc.	To review the calculation of the fee
*PSC-25-05-00011-P	..... exempt	Metering, balancing and cashout provisions by Central Hudson Gas & Electric Corporation	To establish provisions for gas customers taking service under Service Classification Nos. 8, 9 and 11
*PSC-27-05-00018-P	..... exempt	Annual reconciliation of gas costs by New York State Electric & Gas Corporation	To consider the manner in which the gas cost incentive mechanism has been applied

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-41-05-00013-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries by local distribution companies and municipalities	To consider the filings
*PSC-45-05-00011-P	..... exempt	Treatment of lost and unaccounted gas costs by Corning Natural Gas Corporation	To defer certain costs
*PSC-46-05-00015-P	..... exempt	Sale of real and personal property by the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and Steel Arrow, LLC	To consider the sale
*PSC-47-05-00009-P	..... exempt	Transferral of gas supplies by Corning Natural Gas Corporation	To approve the transfer
*PSC-50-05-00008-P	..... exempt	Long-term debt by Saratoga Glen Hollow Water Supply Corp.	To obtain long-term debt
*PSC-04-06-00024-P	..... exempt	Transfer of ownership interests by Mirant NY-Gen LLC and Orange and Rockland Utilities, Inc.	To approve of the transfer
*PSC-06-06-00015-P	..... exempt	Gas curtailment policies and procedures	To examine the manner and extent to which gas curtailment policies and procedures should be modified and/or established
*PSC-07-06-00009-P	..... exempt	Modification of the current Environmental Disclosure Program	To include an attributes accounting system
*PSC-22-06-00019-P	..... exempt	Hourly pricing by National Grid	To assess the impacts
*PSC-22-06-00020-P	..... exempt	Hourly pricing by New York State Electric & Gas Corporation	To assess the impacts
*PSC-22-06-00021-P	..... exempt	Hourly pricing by Rochester Gas & Electric Corporation	To assess the impacts
*PSC-22-06-00022-P	..... exempt	Hourly pricing by Consolidated Edison Company of New York, Inc.	To assess the impacts
*PSC-22-06-00023-P	..... exempt	Hourly pricing by Orange and Rockland Utilities, Inc.	To assess the impacts
*PSC-24-06-00005-EP	..... exempt	Supplemental home energy assistance benefits	To extend the deadline to Central Hudson's low-income customers
*PSC-25-06-00017-P	..... exempt	Purchased power adjustment by Massena Electric Department	To revise the method of calculating the purchased power adjustment and update the factor of adjustment
*PSC-34-06-00009-P	..... exempt	Inter-carrier telephone service quality standards and metrics by the Carrier Working Group	To incorporate appropriate modifications
*PSC-37-06-00015-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-37-06-00017-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-43-06-00014-P	..... exempt	Electric delivery services by Strategic Power Management, Inc.	To determine the proper mechanism for the rate-recovery of costs
*PSC-04-07-00012-P	..... exempt	Petition for rehearing by Orange and Rockland Utilities, Inc.	To clarify the order
*PSC-06-07-00015-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for electric service
*PSC-06-07-00020-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for gas service
*PSC-11-07-00010-P	..... exempt	Investigation of the electric power outages by the Consolidated Edison Company of New York, Inc.	To implement the recommendations in the staff's investigation
*PSC-11-07-00011-P	..... exempt	Storm-related power outages by Consolidated Edison Company of New York, Inc.	To modify the company's response to power outages, the timing for any such changes and other related matters
*PSC-17-07-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and BridgeCom International, Inc.	To amend the agreement
*PSC-18-07-00010-P	..... exempt	Existing electric generating stations by Independent Power Producers of New York, Inc.	To repower and upgrade existing electric generating stations owned by Rochester Gas and Electric Corporation
*PSC-20-07-00016-P	..... exempt	Tariff revisions and making rates permanent by New York State Electric & Gas Corporation	To seek rehearing
*PSC-21-07-00007-P	..... exempt	Natural Gas Supply and Acquisition Plan by Corning Natural Gas Corporation	To revise the rates, charges, rules and regulations for gas service
*PSC-22-07-00015-P	..... exempt	Demand Side Management Program by Consolidated Edison Company of New York, Inc.	To recover incremental program costs and lost revenue
*PSC-23-07-00022-P	..... exempt	Supplier, transportation, balancing and aggregation service by National Fuel Gas Distribution Corporation	To explicitly state in the company's tariff that the threshold level of elective upstream transmission capacity is a maximum of 112,600 Dth/day of marketer-provided upstream capacity
*PSC-24-07-00012-P	..... exempt	Gas Efficiency Program by the City of New York	To consider rehearing a decision establishing a Gas Efficiency Program
*PSC-39-07-00017-P	..... exempt	Gas bill issuance charge by New York State Electric & Gas Corporation	To create a gas bill issuance charge unbundled from delivery rates
*PSC-41-07-00009-P	..... exempt	Submetering of electricity rehearing	To seek reversal
*PSC-42-07-00012-P	..... exempt	Energy efficiency program by Orange and Rockland Utilities, Inc.	To consider any energy efficiency program for Orange and Rockland Utilities, Inc.'s electric service
*PSC-42-07-00013-P	..... exempt	Revenue decoupling by Orange and Rockland Utilities, Inc.	To consider a revenue decoupling mechanism for Orange and Rockland Utilities, Inc.
*PSC-45-07-00005-P	..... exempt	Customer incentive programs by Orange and Rockland Utilities, Inc.	To establish a tariff provision



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-02-08-00006-P	..... exempt	Additional central office codes in the 315 area code region	To consider options for making additional codes
*PSC-03-08-00006-P	..... exempt	Rehearing of the accounting determinations	To grant or deny a petition for rehearing of the accounting determinations
*PSC-04-08-00010-P	..... exempt	Granting of easement rights on utility property by Central Hudson Gas & Electric Corporation	To grant easement rights to Millennium Pipeline Company, L.L.C.
*PSC-04-08-00012-P	..... exempt	Marketing practices of energy service companies by the Consumer Protection Board and New York City Department of Consumer Affairs	To consider modifying the commission's regulation over marketing practices of energy service companies
*PSC-08-08-00016-P	..... exempt	Transfer of ownership by Entergy Nuclear Fitzpatrick LLC, et al.	To consider the transfer
*PSC-12-08-00019-P	..... exempt	Extend the provisions of the existing electric rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-12-08-00021-P	..... exempt	Extend the provisions of the existing gas rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-13-08-00011-P	..... exempt	Waiver of commission policy and NYSEG tariff by Turner Engineering, PC	To grant or deny Turner's petition
*PSC-13-08-00012-P	..... exempt	Voltage drops by New York State Electric & Gas Corporation	To grant or deny the petition
*PSC-23-08-00008-P	..... exempt	Petition requesting rehearing and clarification of the commission's April 25, 2008 order denying petition of public utility law project	To consider whether to grant or deny, in whole or in part, the May 7, 2008 Public Utility Law Project (PULP) petition for rehearing and clarification of the commission's April 25, 2008 order denying petition of Public Utility Law Project
*PSC-25-08-00007-P	..... exempt	Policies and procedures regarding the selection of regulatory proposals to meet reliability needs	To establish policies and procedures regarding the selection of regulatory proposals to meet reliability needs
*PSC-25-08-00008-P	..... exempt	Report on Callable Load Opportunities	Rider U report assessing callable load opportunities in New York City and Westchester County during the next 10 years
*PSC-28-08-00004-P	..... exempt	Con Edison's procedure for providing customers access to their account information	To consider Con Edison's implementation plan and timetable for providing customers access to their account information
*PSC-31-08-00025-P	..... exempt	Recovery of reasonable DRS costs from the cost mitigation reserve (CMR)	To authorize recovery of the DRS costs from the CMR
*PSC-32-08-00009-P	..... exempt	The ESCO referral program for KEDNY to be implemented by October 1, 2008	To approve, reject or modify, in whole or in part, KEDNY's recommended ESCO referral program
*PSC-33-08-00008-P	..... exempt	Noble Allegany's request for lightened regulation	To consider Noble Allegany's request for lightened regulation as an electric corporation
*PSC-36-08-00019-P	..... exempt	Land Transfer in the Borough of Manhattan, New York	To consider petition for transfer of real property to NYPH

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-39-08-00010-P	..... exempt	RG&E's economic development plan and tariffs	Consideration of the approval of RG&E's economic development plan and tariffs
*PSC-40-08-00010-P	..... exempt	Loans from regulated company to its parent	To determine if the cash management program resulting in loans to the parent should be approved
*PSC-41-08-00009-P	..... exempt	Transfer of control of cable TV franchise	To determine if the transfer of control of Margaretville's cable TV subsidiary should be approved
*PSC-43-08-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-46-08-00008-P	..... exempt	Property transfer in the Village of Avon, New York	To consider a petition for the transfer of street lighting and attached equipment to the Village of Avon, New York
*PSC-46-08-00010-P	..... exempt	A transfer of indirect ownership interests in nuclear generation facilities	Consideration of approval of a transfer of indirect ownership interests in nuclear generation facilities
*PSC-46-08-00014-P	..... exempt	The attachment of cellular antennae to an electric transmission tower	To approve, reject or modify the request for permission to attach cellular antennae to an electric transmission tower
*PSC-48-08-00005-P	..... exempt	A National Grid high efficiency gas heating equipment rebate program	To expand eligibility to customers converting from oil to natural gas
*PSC-48-08-00008-P	..... exempt	Petition for the master metering and submetering of electricity	To consider the request of Bay City Metering, to master meter & submeter electricity at 345 E. 81st St., New York, New York
*PSC-48-08-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of PCV/ST to submeter electricity at Peter Cooper Village & Stuyvesant Town, New York, New York
*PSC-50-08-00018-P	..... exempt	Market Supply Charge	A study on the implementation of a revised Market Supply Charge
*PSC-51-08-00006-P	..... exempt	Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458	To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458
*PSC-51-08-00007-P	..... exempt	Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078	To consider Petitions for rehearing of the Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078
*PSC-53-08-00011-P	..... exempt	Use of deferred Rural Telephone Bank funds	To determine if the purchase of a softswitch by Hancock is an appropriate use of deferred Rural Telephone Bank funds
*PSC-53-08-00012-P	..... exempt	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY
*PSC-53-08-00013-P	..... exempt	To transfer common stock and ownership	To consider transfer of common stock and ownership
*PSC-01-09-00015-P	..... exempt	FCC decision to redefine service area of Citizens/Frontier	Review and consider FCC proposed redefinition of Citizens/Frontier service area

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-02-09-00010-P	..... exempt	Competitive classification of independent local exchange company, and regulatory relief appropriate thereto	To determine if Chazy & Westport Telephone Corporation more appropriately belongs in scenario 1 rather than scenario 2
*PSC-05-09-00008-P	..... exempt	Revenue allocation, rate design, performance metrics, and other non-revenue requirement issues	To consider any remaining non-revenue requirement issues related to the Company's May 9, 2008 tariff filing
*PSC-05-09-00009-P	..... exempt	Numerous decisions involving the steam system including cost allocation, energy efficiency and capital projects	To consider the long term impacts on steam rates and on public policy of various options concerning the steam system
*PSC-06-09-00007-P	..... exempt	Interconnection of the networks between Frontier Comm. and WVT Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier Comm. and WVT Comm.
*PSC-07-09-00015-P	..... exempt	Transfer certain utility assets located in the Town of Montgomery from plant held for future use to non-utility property	To consider the request to transfer certain utility assets located in the Town of Montgomery to non-utility assets
*PSC-07-09-00017-P	..... exempt	Request for authorization to defer the incremental costs incurred in the restoration work resulting from the ice storm	To allow the company to defer the incremental costs incurred in the restoration work resulting from the ice storm
*PSC-07-09-00018-P	..... exempt	Whether to permit the submetering of natural gas service to an industrial and commercial customer at Cooper Union, New York, NY	To consider the request of Cooper Union, to submeter natural gas at 41 Cooper Square, New York, New York
*PSC-12-09-00010-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-12-09-00012-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-13-09-00008-P	..... exempt	Options for making additional central office codes available in the 718/347 numbering plan area	To consider options for making additional central office codes available in the 718/347 numbering plan area
*PSC-14-09-00014-P	..... exempt	The regulation of revenue requirements for municipal utilities by the Public Service Commission	To determine whether the regulation of revenue requirements for municipal utilities should be modified
*PSC-16-09-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York
*PSC-16-09-00020-P	..... exempt	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity
*PSC-17-09-00010-P	..... exempt	Whether to permit the use of Elster REX2 solid state electric meter for use in residential and commercial accounts	To permit electric utilities in New York State to use the Elster REX2
*PSC-17-09-00011-P	..... exempt	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes
*PSC-17-09-00012-P	..... exempt	Petition for the submetering of gas at commercial property	To consider the request of Turner Construction, to submeter natural gas at 550 Short Ave., & 10 South St., Governors Island, NY

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-17-09-00014-P	..... exempt	Benefit-cost framework for evaluating AMI programs prepared by the DPS Staff	To consider a benefit-cost framework for evaluating AMI programs prepared by the DPS Staff
*PSC-17-09-00015-P	..... exempt	The construction of a tower for wireless antennas on land owned by National Grid	To approve, reject or modify the petition to build a tower for wireless antennas in the Town of Onondaga
*PSC-18-09-00012-P	..... exempt	Petition for rehearing of Order approving the submetering of electricity	To consider the request of Frank Signore to rehear petition to submeter electricity at One City Place in White Plains, New York
*PSC-18-09-00013-P	..... exempt	Petition for the submetering of electricity	To consider the request of Living Opportunities of DePaul to submeter electricity at E. Main St. located in Batavia, New York
*PSC-18-09-00017-P	..... exempt	Approval of an arrangement for attachment of wireless antennas to the utility's transmission facilities in the City of Yonkers	To approve, reject or modify the petition for the existing wireless antenna attachment to the utility's transmission tower
*PSC-20-09-00016-P	..... exempt	The recovery of, and accounting for, costs associated with the Companies' advanced metering infrastructure (AMI) pilots etc	To consider a filing of the Companies as to the recovery of, and accounting for, costs associated with it's AMI pilots etc
*PSC-20-09-00017-P	..... exempt	The recovery of, and accounting for, costs associated with CHG&E's AMI pilot program	To consider a filing of CHG&E as to the recovery of, and accounting for, costs associated with it's AMI pilot program
*PSC-22-09-00011-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-25-09-00005-P	..... exempt	Whether to grant, deny, or modify, in whole or in part, the petition	Whether to grant, deny, or modify, in whole or in part, the petition
*PSC-25-09-00006-P	..... exempt	Electric utility implementation plans for proposed web based SIR application process and project status database	To determine if the proposed web based SIR systems are adequate and meet requirements needed for implementation
*PSC-25-09-00007-P	..... exempt	Electric rates for Consolidated Edison Company of New York, Inc	Consider a Petition for Rehearing filed by Consolidated Edison Company of New York, Inc
*PSC-27-09-00011-P	..... exempt	Interconnection of the networks between Vernon and tw telecom of new york l.p. for local exchange service and exchange access.	To review the terms and conditions of the negotiated agreement between Vernon and tw telecom of new york l.p.
*PSC-27-09-00014-P	..... exempt	Billing and payment for energy efficiency measures through utility bill	To promote energy conservation
*PSC-27-09-00015-P	..... exempt	Interconnection of the networks between Oriskany and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Oriskany and tw telecom of new york l.p
*PSC-29-09-00011-P	..... exempt	Consideration of utility compliance filings	Consideration of utility compliance filings
*PSC-32-09-00009-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-34-09-00016-P	..... exempt	Recommendations made in the Management Audit Final Report	To consider whether to take action or recommendations contained in the Management Audit Final Report
*PSC-34-09-00017-P	..... exempt	To consider the transfer of control of Plattsburgh Cablevision, Inc. d/b/a Charter Communications to CH Communications, LLC	To allow the Plattsburgh Cablevision, Inc. to distribute its equity interest in CH Communications, LLC
*PSC-36-09-00008-P	..... exempt	The increase in the non-bypassable charge implemented by RG&E on June 1, 2009	Considering exemptions from the increase in the non-bypassable charge implemented by RG&E on June 1, 2009
*PSC-37-09-00015-P	..... exempt	Sale of customer-generated steam to the Con Edison steam system	To establish a mechanism for sale of customer-generated steam to the Con Edison steam system
*PSC-37-09-00016-P	..... exempt	Applicability of electronic signatures to Deferred Payment Agreements	To determine whether electronic signatures can be accepted for Deferred Payment Agreements
*PSC-39-09-00015-P	..... exempt	Modifications to the \$5 Bill Credit Program	Consideration of petition of National Grid to modify the Low Income \$5 Bill Credit Program
*PSC-39-09-00018-P	..... exempt	The offset of deferral balances with Positive Benefit Adjustments	To consider a petition to offset deferral balances with Positive Benefit Adjustments
*PSC-40-09-00013-P	..... exempt	Uniform System of Accounts - request for deferral and amortization of costs	To consider a petition to defer and amortize costs
*PSC-51-09-00029-P	..... exempt	Rules and guidelines for the exchange of retail access data between jurisdictional utilities and eligible ESCOs	To revise the uniform Electronic Data Interchange Standards and business practices to incorporate a contest period
*PSC-51-09-00030-P	..... exempt	Waiver or modification of Capital Expenditure condition of merger	To allow the companies to expend less funds for capital improvement than required by the merger
*PSC-52-09-00006-P	..... exempt	ACE's petition for rehearing for an order regarding generator-specific energy deliverability study methodology	To consider whether to change the Order Prescribing Study Methodology
*PSC-52-09-00008-P	..... exempt	Approval for the New York Independent System Operator, Inc. to incur indebtedness and borrow up to \$50,000,000	To finance the renovation and construction of the New York Independent System Operator, Inc.'s power control center facilities
*PSC-05-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of University Residences - Rochester, LLC to submeter electricity at 220 John Street, Henrietta, NY
*PSC-05-10-00015-P	..... exempt	Petition for the submetering of electricity	To consider the request of 243 West End Avenue Owners Corp. to submeter electricity at 243 West End Avenue, New York, NY
*PSC-06-10-00022-P	..... exempt	The Commission's Order of December 17, 2009 related to redevelopment of Consolidated Edison's Hudson Avenue generating facility	To reconsider the Commission's Order of December 17, 2009 related to redevelopment of the Hudson Avenue generating facility
*PSC-07-10-00009-P	..... exempt	Petition to revise the Uniform Business Practices	To consider the RESA petition to allow rescission of a customer request to return to full utility service

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-08-10-00007-P	..... exempt	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847
*PSC-08-10-00009-P	..... exempt	Consolidated Edison of New York, Inc. energy efficiency programs	To modify approved energy efficiency programs
*PSC-12-10-00015-P	..... exempt	Recommendations made by Staff intended to enhance the safety of Con Edison's gas operations	To require that Con Edison implement the Staff recommendations intended to enhance the safety of Con Edison's gas operations
*PSC-14-10-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of 61 Jane Street Owners Corporation to submeter Electricity at 61 Jane Street, Manhattan, NY
*PSC-16-10-00005-P	..... exempt	To consider adopting and expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-16-10-00007-P	..... exempt	Interconnection of the networks between TDS Telecom and PAETEC Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between TDS Telecom and PAETEC Communications
*PSC-16-10-00015-P	..... exempt	Interconnection of the networks between Frontier and Choice One Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier and Choice One Communications
*PSC-18-10-00009-P	..... exempt	Electric utility transmission right-of-way management practices	To consider electric utility transmission right-of-way management practices
*PSC-19-10-00022-P	..... exempt	Whether National Grid should be permitted to transfer a parcel of property located at 1 Eddy Street, Fort Edward, New York	To decide whether to approve National Grid's request to transfer a parcel of vacant property in Fort Edward, New York
*PSC-22-10-00006-P	..... exempt	Requirement that Noble demonstrate that its affiliated electric corporations operating in New York are providing safe service	Consider requiring that Noble demonstrate that its affiliated electric corporations in New York are providing safe service
*PSC-22-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of 48-52 Franklin Street to submeter electricity at 50 Franklin Street, New York, New York
*PSC-24-10-00009-P	..... exempt	Verizon New York Inc. tariff regulations relating to voice messaging service	To remove tariff regulations relating to retail voice messaging service from Verizon New York Inc.'s tariff
*PSC-25-10-00012-P	..... exempt	Reassignment of the 2-1-1 abbreviated dialing code	Consideration of petition to reassign the 2-1-1 abbreviated dialing code
*PSC-27-10-00016-P	..... exempt	Petition for the submetering of electricity	To consider the request of 9271 Group, LLC to submeter electricity at 960 Busti Avenue, Buffalo, New York
*PSC-34-10-00003-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-34-10-00005-P	..... exempt	Approval of a contract for \$250,000 in tank repairs that may be a financing	To decide whether to approve a contract between the parties that may be a financing of \$250,000 for tank repairs

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-34-10-00006-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-36-10-00010-P	..... exempt	Central Hudson's procedures, terms and conditions for an economic development plan	Consideration of Central Hudson's procedures, terms and conditions for an economic development plan
*PSC-40-10-00014-P	..... exempt	Disposition of a state sales tax refund	To determine how much of a state sales tax refund should be retained by National Grid
*PSC-40-10-00021-P	..... exempt	Whether to permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall	To permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall
*PSC-41-10-00018-P	..... exempt	Amount of hourly interval data provided to Hourly Pricing customers who have not installed a phone line to read meter	Allow Central Hudson to provide less than a years worth of interval data and charge for manual meter reading for some customers
*PSC-41-10-00022-P	..... exempt	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY
*PSC-42-10-00011-P	..... exempt	Petition for the submetering of electricity	To consider the request of 4858 Group, LLC to submeter electricity at 456 Main Street, Buffalo, New York
*PSC-43-10-00016-P	..... exempt	Utility Access to Ducts, Conduit Facilities and Utility Poles	To review the complaint from Optical Communications Group
*PSC-44-10-00003-P	..... exempt	Third and fourth stage gas rate increase by Corning Natural Gas Corporation	To consider Corning Natural Gas Corporation's request for a third and fourth stage gas rate increase
*PSC-51-10-00018-P	..... exempt	Commission proceeding concerning three-phase electric service by all major electric utilities	Investigate the consistency of the tariff provisions for three-phase electric service for all major electric utilities
*PSC-11-11-00003-P	..... exempt	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service
*PSC-13-11-00005-P	..... exempt	Exclude the minimum monthly bill component from the earnings test calculation	Exclude the minimum monthly bill component from the earnings test calculation
*PSC-14-11-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of 83-30 118th Street to submeter electricity at 83-30 118th Street, Kew Gardens, New York
*PSC-19-11-00007-P	..... exempt	Utility price reporting requirements related to the Commission's "Power to Choose" website	Modify the Commission's utility electric commodity price reporting requirements related to the "Power to Choose" website
*PSC-20-11-00012-P	..... exempt	Petition for the submetering of electricity	To consider the request of KMW Group LLC to submeter electricity at 122 West Street, Brooklyn, New York
*PSC-20-11-00013-P	..... exempt	Determining the reasonableness of Niagara Mohawk Power Corporation d/b/a National Grid 's make ready charges	To determine if the make ready charges of Niagara Mohawk Power Corporation d/b/a National Grid are reasonable

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-22-11-00004-P	..... exempt	Whether to permit the use of the Sensus accWAVE for use in residential gas meter applications	To permit gas utilities in New York State to use the Sensus accWAVE diaphragm gas meter
*PSC-26-11-00007-P	..... exempt	Water rates and charges	To approve an increase in annual revenues by about \$25,266 or 50%
*PSC-26-11-00009-P	..... exempt	Petition for the submetering of electricity at commercial property	To consider the request of by Hoosick River Hardwoods, LLC to submeter electricity at 28 Taylor Avenue, in Berlin, New York
*PSC-26-11-00012-P	..... exempt	Waiver of generation retirement notice requirements	Consideration of waiver of generation retirement notice requirements
*PSC-29-11-00011-P	..... exempt	Petition requesting the Commission reconsider its May 19, 2011 Order and conduct a hearing, and petition to stay said Order.	To consider whether to grant or deny, in whole or in part, Windstream New York's Petition For Reconsideration and Rehearing.
*PSC-35-11-00011-P	..... exempt	Whether to permit Consolidated Edison a waiver to commission regulations Part 226.8	Permit Consolidated Edison to conduct a inspection program in lieu of testing the accuracy of Category C meters
*PSC-36-11-00006-P	..... exempt	To consider expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-38-11-00002-P	..... exempt	Operation and maintenance procedures pertaining to steam trap caps	Adopt modified steam operation and maintenance procedures
*PSC-38-11-00003-P	..... exempt	Waiver of certain provisions of the electric service tariffs of Con Edison	Consideration of waiver of certain provisions of the electric service tariffs of Con Edison
*PSC-40-11-00010-P	..... exempt	Participation of regulated local exchange carriers in the New York Data Exchange, Inc. (NYDE)	Whether to partially modify its order requiring regulated local exchange carriers' participation NYDE
*PSC-40-11-00012-P	..... exempt	Granting of transfer of plant in-service to a regulatory asset	To approve transfer and recovery of unamortized plant investment
*PSC-42-11-00018-P	..... exempt	Availability of telecommunications services in New York State at just and reasonable rates	Providing funding support to help ensure availability of affordable telecommunications service throughout New York
*PSC-43-11-00012-P	..... exempt	Transfer of outstanding shares of stock	Transfer the issued outstanding shares of stock of The Meadows at Hyde Park Water-Works Corporation to HPWS, LLC
*PSC-47-11-00007-P	..... exempt	Remedying miscalculations of delivered gas as between two customer classes	Consideration of Con Edison's proposal to address inter-class delivery imbalances resulting from past Company miscalculations
*PSC-48-11-00007-P	..... exempt	Transfer of controlling interests in generation facilities from Dynegy to PSEG	Consideration of the transfer of controlling interests in electric generation facilities from Dynegy to PSEG
*PSC-48-11-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of To Better Days, LLC to submeter electricity at 37 East 4th Street, New York, New York
*PSC-01-12-00007-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-01-12-00008-P	..... exempt	Transfer of real property and easements from NMPNS to NMP3	Consideration of the transfer of real property and easements from NMPNS to NMP3
*PSC-01-12-00009-P	..... exempt	Recovery of expenses related to the expansion of Con Edison's ESCO referral program, PowerMove	To determine how and to what extent expenses related to the Expansion of Con Edison's ESCO referral program should be recovered
*PSC-11-12-00002-P	..... exempt	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff
*PSC-11-12-00005-P	..... exempt	Transfer of land and water supply assets	Transfer the land and associated water supply assets of Groman Shores, LLC to Robert Groman
*PSC-13-12-00005-P	..... exempt	Authorization to transfer certain real property	To decide whether to approve the transfer of certain real property
*PSC-19-12-00023-P	..... exempt	Petition for approval pursuant to Section 70 for the sale of goods with an original cost of less than \$100,000	To consider whether to grant, deny or modify, in whole or in part, the petition filed by Orange and Rockland Utilities, Inc.
*PSC-21-12-00006-P	..... exempt	Tariff filing requirements and refunds	To determine if certain agreements should be filed pursuant to the Public Service Law and if refunds are warranted
*PSC-21-12-00011-P	..... exempt	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47
*PSC-23-12-00007-P	..... exempt	The approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility	To consider the approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility
*PSC-23-12-00009-P	..... exempt	Over earnings sharing between rate payers and shareholders	To establish an Earnings Sharing Mechanism to be applied following the conclusion of Corning's rate plan
*PSC-27-12-00012-P	..... exempt	Implementation of recommendations made in a Management Audit Report	To consider implementation of recommendations made in a Management Audit Report
*PSC-28-12-00013-P	..... exempt	Exemption of reliability reporting statistics for the purpose of the 2012 Reliability Performance Mechanism	Consideration of Orange and Rockland Utilities request for exemption of the 2012 reliability reporting statistics
*PSC-29-12-00019-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Hamden to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-30-12-00010-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Andes to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-33-12-00009-P	..... exempt	Telecommunications companies ability to attach to utility company poles	Consideration of Tech Valley's ability to attach to Central Hudson poles
*PSC-37-12-00009-P	..... exempt	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-42-12-00009-P	..... exempt	Regulation of Gipsy Trail Club, Inc.'s long-term financing agreements	To exempt Gipsy Trail Club, Inc. from Commission regulation of its financing agreements
*PSC-45-12-00008-P	..... exempt	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff
*PSC-45-12-00010-P	..... exempt	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District
*PSC-50-12-00003-P	..... exempt	Affiliate standards for Corning Natural Gas Corporation	To resolve issues raised by Corning Natural Gas Corporation in its petition for rehearing
*PSC-04-13-00006-P	..... exempt	Expansion of mandatory day ahead hourly pricing for customers of Orange and Rockland Utilities with demands above 100 kW	To consider the expansion of mandatory day ahead hourly pricing for customers with demands above 100 kW
*PSC-04-13-00007-P	..... exempt	Authorization to transfer certain real property.	To decide whether to approve the transfer of certain real property.
*PSC-06-13-00008-P	..... exempt	Verizon New York Inc.'s retail service quality	To investigate Verizon New York Inc.'s retail service quality
*PSC-08-13-00012-P	..... exempt	Filing requirements for certain Article VII electric facilities	To ensure that applications for certain electric transmission facilities contain pertinent information
*PSC-08-13-00014-P	..... exempt	Uniform System of Accounts - Request for Accounting Authorization	To allow the company to defer an item of expense or capital beyond the end of the year in which it was incurred
*PSC-12-13-00007-P	..... exempt	Protecting company water mains	To allow the company to require certain customers to make changes to the electrical grounding system at their homes
*PSC-13-13-00008-P	..... exempt	The potential waiver of 16 NYCRR 255.9221(d) completion of integrity assessments for certain gas transmission lines.	To determine whether a waiver of the timely completion of certain gas transmission line integrity assessments should be granted.
*PSC-18-13-00007-P	..... exempt	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes
*PSC-21-13-00003-P	..... exempt	To consider policies that may impact consumer acceptance and use of electric vehicles	To consider and further develop policies that may impact consumer acceptance and use of electric vehicles
*PSC-21-13-00005-P	..... exempt	To implement an abandonment of Windover's water system	To approve the implementation of abandonment of Windover's water system
*PSC-21-13-00008-P	..... exempt	Rates of National Fuel Gas Distribution Corporation	To make the rates of National Fuel Gas Distribution Corporation temporary, subject to refund, if they are found to be excessive
*PSC-21-13-00009-P	..... exempt	Reporting requirements for natural gas local distribution companies	To help ensure efficient and economic expansion of the natural gas system as appropriate

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-22-13-00009-P	..... exempt	On remand from New York State court litigation, determine the recovery of certain deferred amounts owed NFG by ratepayers	On remand, to determine the recovery of certain deferral amounts owed NFG from ratepayers
*PSC-23-13-00005-P	..... exempt	Waiver of partial payment, directory database distribution, service quality reporting, and service termination regulations	Equalize regulatory treatment based on level of competition and practical considerations
*PSC-25-13-00008-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-25-13-00009-P	..... exempt	Provision by utilities of natural gas main and service lines.	To help ensure efficient and economic expansion of the natural gas system as appropriate.
*PSC-25-13-00012-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-27-13-00014-P	..... exempt	Columbia Gas Transmission Corporation Cost Refund	For approval for temporary waiver of tariff provisions regarding its Columbia Gas Transmission Corporation cost refund.
*PSC-28-13-00014-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-28-13-00016-P	..... exempt	The request of NGT for lightened regulation as a gas corporation.	To consider whether to approve, reject, or modify the request of Niagara gas transport of Lockport, NY LLC.
*PSC-28-13-00017-P	..... exempt	The request by TE for waiver of regulations requiring that natural gas be odorized in certain gathering line segments	Consider the request by TE for waiver of regulations that gas be odorized in certain lines
*PSC-32-13-00009-P	..... exempt	To consider the definition of "misleading or deceptive conduct" in the Commission's Uniform Business Practices	To consider the definition of "misleading or deceptive conduct" in the Commission's Uniform Business Practices
*PSC-32-13-00012-P	..... exempt	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion
*PSC-33-13-00027-P	..... exempt	Waive underground facility requirements for new construction in residential subdivisions to allow for overhead electric lines.	Determine whether Chapin Lumberland, LLC subdivision will be allowed overhead electric distribution and service lines.
*PSC-33-13-00029-P	..... exempt	Deferral of incremental costs associated with the restoration of steam service following Superstorm Sandy.	To consider a petition by Con Edison to defer certain incremental steam system restoration costs relating to Superstorm Sandy.
*PSC-34-13-00004-P	..... exempt	Escrow account and surcharge to fund extraordinary repairs	To approve the establishment of an escrow account and surcharge
*PSC-42-13-00013-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-42-13-00015-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-43-13-00015-P	..... exempt	Petition for submetering of electricity	To consider the request of 2701 Kingsbridge Terrace L.P. to submeter electricity at 2701 Kingsbridge Terrace, Bronx, N.Y.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-45-13-00021-P	..... exempt	Investigation into effect of bifurcation of gas and electric utility service on Long Island.	To consider a Petition for an investigation into effect of bifurcation of gas and electric utility service on Long Island.
*PSC-45-13-00022-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00023-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00024-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4); waiver of filing deadlines.	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00025-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-47-13-00009-P	..... exempt	Petition for submetering of electricity.	To consider the request of Hegeman Avenue Housing L.P. to submeter electricity at 39 Hegeman Avenue, Brooklyn, N.Y.
*PSC-47-13-00012-P	..... exempt	Conditioning, restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.	Consideration of conditioning, restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.
*PSC-49-13-00008-P	..... exempt	Authorization to transfer all of Crystal Water Supply Company, Inc. stocks to Essel Infra West Inc.	To allow Crystal Water Supply Company, Inc to transfer all of its issued and outstanding stocks to Essel Infra West Inc.
*PSC-51-13-00009-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00010-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00011-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-52-13-00012-P	..... exempt	The development of reliability contingency plan(s) to address the potential retirement of Indian Point Energy Center (IPEC).	To address the petition for rehearing and reconsideration/motion for clarification of the IPEC reliability contingency plan(s).
*PSC-52-13-00015-P	..... exempt	To enter into a loan agreement with the banks for up to an amount of \$94,000.	To consider allowing Knolls Water Company to enter into a long-term loan agreement.
*PSC-05-14-00010-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-07-14-00008-P	..... exempt	Petition for submetering of electricity	To consider the request of Greater Centennial Homes HDFC, Inc. to submeter electricity at 102, 103 and 106 W 5th Street, et al.
*PSC-07-14-00012-P	..... exempt	Water rates and charges	Implementation of Long-Term Water Supply Surcharge to recover costs associated with the Haverstraw Water Supply Project



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-08-14-00015-P	..... exempt	Verizon New York Inc.'s service quality and Customer Trouble Report Rate (CTRR) levels at certain central office entities	To improve Verizon New York Inc.'s service quality and the Customer Trouble Report Rate levels at certain central office entities
*PSC-10-14-00006-P	..... exempt	Actions to facilitate the availability of ESCO value-added offerings, ESCO eligibility and ESCO compliance	To facilitate ESCO value-added offerings and to make changes to ESCO eligibility and to ensure ESCO compliance
*PSC-11-14-00003-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-16-14-00014-P	..... exempt	Whether to order NYSEG to provide gas service to customers when an expanded CPCN is approved and impose PSL 25-a penalties.	To order gas service to customers in the Town of Plattsburgh after approval of a town wide CPCN and to impose penalties.
*PSC-16-14-00015-P	..... exempt	Whether Central Hudson should be permitted to defer obligations of the Order issued on October 18, 2013 in Case 13-G-0336.	Consideration of the petition by Central Hudson to defer reporting obligations of the October 18, 2013 Order in Case 13-G-0336
*PSC-17-14-00003-P	..... exempt	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism
*PSC-17-14-00004-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00007-P	..... exempt	To consider petitions for rehearing, reconsideration and/or clarification	To consider petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00008-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-19-14-00014-P	..... exempt	Market Supply Charge	To make tariff revisions to the Market Supply Charge for capacity related costs
*PSC-19-14-00015-P	..... exempt	Whether to permit the use of the Sensus accuWAVE for use in residential and commercial gas meter applications	To permit gas utilities in New York State to use the Sensus accuWAVE 415TC gas meter
*PSC-22-14-00013-P	..... exempt	Petition to transfer and merge systems, franchises and assets.	To consider the Comcast and Time Warner Cable merger and transfer of systems, franchises and assets.
*PSC-23-14-00010-P	..... exempt	Whether to permit the use of the GE Dresser Series B3-HPC 11M-1480 rotary gas met for use in industrial gas meter applications	To permit gas utilities in New York State to use the GE Dresser Series B3-HPC 11M-1480 rotary gas meter
*PSC-23-14-00014-P	..... exempt	Waiver of the negative revenue adjustment associated with KEDLI's 2013 Customer Satisfaction Performance Metric	Consideration of KEDLI's waiver request pertaining to its 2013 performance under its Customer Satisfaction Metric
*PSC-24-14-00005-P	..... exempt	To examine LDC's performance and performance measures.	To improve gas safety performance.
*PSC-26-14-00013-P	..... exempt	Waiver of RG&E's tariffed definition of emergency generator.	To consider waiver of RG&E's tariffed definition of emergency generator.
*PSC-26-14-00020-P	..... exempt	New electric utility backup service tariffs and standards for interconnection may be adopted.	To encourage development of microgrids that enhance the efficiency, safety, reliability and resiliency of the electric grid.

## Action Pending Index

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-26-14-00021-P	..... exempt	Consumer protections, standards and protocols pertaining to access to customer data may be established.	To balance the need for the information necessary to support a robust market with customer privacy concerns.
*PSC-28-14-00014-P	..... exempt	Petition to transfer systems, franchises and assets.	To consider the Comcast and Charter transfer of systems, franchise and assets.
*PSC-30-14-00023-P	..... exempt	Whether to permit the use of the Sensus iPERL Fire Flow Meter.	Pursuant to 16 NYCRR Part 500.3 , it is necessary to permit the use of the Sensus iPERL Fire Flow Meter.
*PSC-30-14-00026-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of Renaissance Corporation of to master meter electricity at 100 Union Drive,Albany, NY.
*PSC-31-14-00004-P	..... exempt	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross
*PSC-32-14-00012-P	..... exempt	Whether to grant or deny, in whole or in part, the Connect New York Coalition's petition	To consider the Connect New York Coalition's petition seeking a formal investigation and hearings
*PSC-35-14-00004-P	..... exempt	Regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY	To consider regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY
*PSC-35-14-00005-P	..... exempt	Whether to permit the use of the Sensus iConA electric meter	Pursuant to 16 NYCRR Parts 92 and 93, Commission approval is necessary to permit the use of the Sensus iConA electric meter
*PSC-36-14-00009-P	..... exempt	Modification to the Commission's Electric Safety Standards.	To consider revisions to the Commission's Electric Safety Standards.
*PSC-38-14-00003-P	..... exempt	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.
*PSC-38-14-00004-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00005-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-38-14-00007-P	..... exempt	Whether to expand Con Edison's low income program to include Medicaid recipients.	Whether to expand Con Edison's low income program to include Medicaid recipients.
*PSC-38-14-00008-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00010-P	..... exempt	Inter-carrier telephone service quality standard and metrics and administrative changes.	To review recommendations from the Carrier Working Group and incorporate appropriate modifications to the existing Guidelines.
*PSC-38-14-00012-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-39-14-00020-P	..... exempt	Whether to permit the use of the Mueller Systems 400 Series and 500 Series of water meters	Pursuant to 16 NYCRR section 500.3, whether to permit the use of the Mueller Systems 400, and 500 Series of water meters
*PSC-40-14-00008-P	..... exempt	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.
*PSC-40-14-00009-P	..... exempt	Whether to permit the use of the Itron Open Way Centron Meter with Hardware 3.1 for AMR and AMI functionality.	Pursuant to 16 NYCRR Parts 93, is necessary to permit the use of the Itron Open Way Centron Meter with Hardware 3.1.
*PSC-40-14-00011-P	..... exempt	Late Payment Charge.	To modify Section 7.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-40-14-00013-P	..... exempt	Regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.	To consider regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.
*PSC-40-14-00014-P	..... exempt	Waiver of 16 NYCRR Sections 894.1 through 894.4(b)(2)	To allow the Town of Goshen, NY, to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-40-14-00015-P	..... exempt	Late Payment Charge.	To modify Section 6.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-42-14-00003-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-42-14-00004-P	..... exempt	Winter Bundled Sales Service Option	To modify SC-11 to remove language relating to fixed storage charges in the determination of the Winter Bundled Sales charge
*PSC-48-14-00014-P	..... exempt	Considering the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line.	To consider the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line.
*PSC-52-14-00019-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of 614 South Crouse Avenue, LLC to master meter electricity at 614 South Crouse Avenue, Syracuse, NY..
*PSC-01-15-00014-P	..... exempt	State Universal Service Fund Disbursements	To consider Edwards Telephone Company's request for State Universal Service Fund disbursements
*PSC-08-15-00010-P	..... exempt	Request pertaining to the lawfulness of National Grid USA continuing its summary billing program.	To grant, deny, or modify URAC Rate Consultants' request that National Grid cease its summary billing program.
*PSC-10-15-00007-P	..... exempt	Notification concerning tax refunds	To consider Verizon New York Inc.'s partial rehearing or reconsideration request regarding retention of property tax refunds
*PSC-10-15-00008-P	..... exempt	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-13-15-00024-P	..... exempt	Whether Leatherstocking should be permitted to recover a shortfall in earnings	To decide whether to approve Leatherstocking's request to recover a shortfall in earnings
*PSC-13-15-00026-P	..... exempt	Whether to permit the use of the Sensus Smart Point Gas AMR/AMI product	To permit the use of the Sensus Smart Point Gas AMR/AMI product
*PSC-13-15-00027-P	..... exempt	Whether to permit the use of the Measurlogic DTS 310 electric submeter	To permit the use of the Measurlogic DTS 310 submeter
*PSC-13-15-00028-P	..... exempt	Whether to permit the use of the SATEC EM920 electric meter	To permit necessary to permit the use of the SATEC EM920 electric meter
*PSC-13-15-00029-P	..... exempt	Whether to permit the use the Triacta Power Technologies 6103, 6112, 6303, and 6312 electric submeters	To permit the use of the Triacta submeters
*PSC-17-15-00007-P	..... exempt	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million
*PSC-18-15-00005-P	..... exempt	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism
*PSC-19-15-00011-P	..... exempt	Gas Safety Performance Measures and associated negative revenue adjustments	To update the performance measures applicable to KeySpan Gas East Corporation d/b/a National Grid
*PSC-22-15-00015-P	..... exempt	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)
*PSC-23-15-00005-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-23-15-00006-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-25-15-00008-P	..... exempt	Notice of Intent to Submeter electricity.	To consider the request of 165 E 66 Residences, LLC to submeter electricity at 165 East 66th Street, New York, New York.
*PSC-29-15-00025-P	..... exempt	Joint Petition for authority to transfer real property located at 624 West 132nd Street, New York, NY	Whether to authorize the proposed transfer of real property located at 624 West 132nd Street, New York, NY
*PSC-32-15-00006-P	..... exempt	Development of a Community Solar Demonstration Project.	To approve the development of a Community Solar Demonstration Project.
*PSC-33-15-00009-P	..... exempt	Remote net metering of a demonstration community net metering program.	To consider approval of remote net metering of a demonstration community net metering program.
*PSC-33-15-00012-P	..... exempt	Remote net metering of a Community Solar Demonstration Project.	To consider approval of remote net metering of a Community Solar Demonstration Project.
*PSC-34-15-00021-P	..... exempt	Petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs	To consider the petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-35-15-00014-P	..... exempt	Consideration of consequences against Light Power & Gas, LLC for violations of the UBP	To consider consequences against Light Power & Gas, LLC for violations of the UBP
*PSC-37-15-00007-P	..... exempt	Submetered electricity	To consider the request of 89 Murray Street Ass. LLC, for clarification of the submetering order issued December 20, 2007
*PSC-40-15-00014-P	..... exempt	Whether to permit the use of the Open Way 3.5 with cellular communications	To consider the use of the Open Way 3.5 electric meter, pursuant to 16 NYCRR Parts 92 and 93
*PSC-42-15-00006-P	..... exempt	Deferral of incremental expenses associated with NERC's new Bulk Electric System (BES) compliance requirements approved by FERC.	Consideration of Central Hudson's request to defer incremental expenses associated with new BES compliance requirements.
*PSC-44-15-00028-P	..... exempt	Deferral of incremental expenses associated with new compliance requirements	Consideration of Central Hudson's request to defer incremental expenses associated with new compliance requirements
*PSC-47-15-00013-P	..... exempt	Whitepaper on Implementing Lightened Ratemaking Regulation.	Consider Whitepaper on Implementing Lightened Ratemaking Regulation.
*PSC-48-15-00011-P	..... exempt	Proposal to retire Huntley Units 67 and 68 on March 1, 2016.	Consider the proposed retirement of Huntley Units 67 and 68.
*PSC-50-15-00006-P	..... exempt	The reduction of rates.	To consider the reduction of rates charged by Independent Water Works, Inc.
*PSC-50-15-00009-P	..... exempt	Notice of Intent to submeter electricity.	To consider the request to submeter electricity at 31-33 Lincoln Road and 510 Flatbush Avenue, Brooklyn, New York.
*PSC-51-15-00010-P	..... exempt	Modification of the EDP	To consider modifying the EDP
*PSC-01-16-00005-P	..... exempt	Proposed amendment to Section 5, Attachment 1.A of the Uniform Business Practices	To consider amendment to Section 5, Attachment 1.A of the Uniform Business Practices
*PSC-04-16-00007-P	..... exempt	Whether Hamilton Municipal Utilities should be permitted to construct and operate a municipal gas distribution facility.	Consideration of the petition by Hamilton Municipal Utilities to construct and operate a municipal gas distribution facility.
*PSC-04-16-00012-P	..... exempt	Proposal to mothball three gas turbines located at the Astoria Gas Turbine Generating Station.	Consider the proposed mothball of three gas turbines located at the Astoria Gas Turbine Generating Station.
*PSC-04-16-00013-P	..... exempt	Proposal to find that three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.	Consider whether three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.
*PSC-06-16-00013-P	..... exempt	Continued deferral of approximately \$16,000,000 in site investigation and remediation costs.	To consider the continued deferral of approximately \$16,000,000 in site investigation and remediation costs.
*PSC-06-16-00014-P	..... exempt	MEGA's proposed demonstration CCA program.	To consider MEGA's proposed demonstration CCA program.
*PSC-14-16-00008-P	..... exempt	Resetting retail markets for ESCO mass market customers.	To ensure consumer protections with respect to residential and small non-residential ESCO customers.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-18-16-00013-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00014-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00015-P	..... exempt	Petitions for rehearing of the Order Resetting Retail Energy Markets and Establishing Further Process.	To ensure consumer protections for ESCO customers.
*PSC-18-16-00016-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00018-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-20-16-00008-P	..... exempt	Consideration of consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).	To consider consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).
*PSC-20-16-00010-P	..... exempt	Deferral and recovery of incremental expense.	To consider deferring costs of conducting leak survey and repairs for subsequent recovery.
*PSC-20-16-00011-P	..... exempt	Enetics LD-1120 Non-Intrusive Load Monitoring Device in the Statewide Residential Appliance Metering Study.	To consider the use of the Enetics LD-1120 Non-Intrusive Load Monitoring Device.
*PSC-24-16-00009-P	..... exempt	Petition to submeter gas service.	To consider the Petition of New York City Economic Development Corp. to submeter gas at Pier 17, 89 South Street, New York, NY.
*PSC-25-16-00009-P	..... exempt	To delay Companies' third-party assessments of customer personally identifiable information until 2018.	To extend the time period between the Companies' third-party assessments of customer personally identifiable information.
*PSC-25-16-00025-P	..... exempt	Acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.	To consider acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.
*PSC-25-16-00026-P	..... exempt	Use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter, in residential fire service applications.	To consider the use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter in fire service applications.
*PSC-28-16-00017-P	..... exempt	A petition for rehearing of the Order Adopting a Ratemaking and Utility Revenue Model Policy Framework.	To determine appropriate rules for and calculation of the distributed generation reliability credit.
*PSC-29-16-00024-P	..... exempt	Participation of NYPA customers in surcharge-funded clean energy programs.	To consider participation of NYPA customers in surcharge-funded clean energy programs.
*PSC-32-16-00012-P	..... exempt	Benefit-Cost Analysis Handbooks.	To evaluate proposed methodologies of benefit-cost evaluation.
*PSC-33-16-00001-EP	..... exempt	Use of escrow funds for repairs.	To authorize the use of escrow account funds for repairs.
*PSC-33-16-00005-P	..... exempt	Exemption from certain charges for delivery of electricity to its Niagara Falls, New York facility.	Application of System Benefits Charges, Renewable Portfolio Standard charges and Clean Energy Fund surcharges.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-35-16-00015-P	..... exempt	NYSRC's revisions to its rules and measurements	To consider revisions to various rules and measurements of the NYSRC
*PSC-36-16-00004-P	..... exempt	Recovery of costs for installation of electric service.	To consider the recovery of costs for installation of electric service.
*PSC-40-16-00025-P	..... exempt	Consequences pursuant to the Commission's Uniform Business Practices (UBP).	To consider whether to impose consequences on Smart One for its apparent non-compliance with Commission requirements.
*PSC-47-16-00009-P	..... exempt	Petition to use commercial electric meters	To consider the petition of Itron, Inc. to use the Itron CP2SO and CP2SOA in commercial electric meter applications
*PSC-47-16-00010-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00013-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00014-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00016-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-02-17-00010-P	..... exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for RG&E.
*PSC-02-17-00012-P	..... exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for NYSEG.
*PSC-18-17-00024-P	..... exempt	A petition for rehearing or reconsideration of the Order Addressing Public Policy Transmission Need for AC Transmission Upgrades	To determine whether Public Policy Transmission Need/Public Policy Requirements continue to exist.
*PSC-18-17-00026-P	..... exempt	Revisions to the Dynamic Load Management surcharge.	To consider revisions to the Dynamic Load Management surcharge.
*PSC-19-17-00004-P	..... exempt	NYAW's request to defer and amortize, for future rate recognition, pension settlement payout losses incurred in 2016.	Consideration of NYAW's petition to defer and amortize, for future rate recognition, pension payout losses incurred in 2016.
*PSC-20-17-00008-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles.	To consider a report filed by National Grid NY regarding the potential for adoption of compressed natural gas as a motor fuel.
*PSC-20-17-00010-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles.	To consider a report filed by National Grid regarding the potential for adoption of compressed natural gas as a motor fuel.
*PSC-21-17-00013-P	..... exempt	The establishment and implementation of Earnings Adjustment Mechanisms.	To consider the establishment and implementation of Earnings Adjustment Mechanisms.
*PSC-21-17-00018-P	..... exempt	Proposed agreement for the provision of water service by Saratoga Water Services, Inc.	To consider a waiver and approval of terms of a service agreement.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-22-17-00004-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives	To consider the proposed Interconnection Survey Process and Earnings Adjustment Mechanisms
*PSC-24-17-00006-P	..... exempt	Development of the Utility Energy Registry.	Improved data access.
*PSC-26-17-00005-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent to submeter electricity at 125 Waverly Street, Yonkers, New York.
*PSC-34-17-00011-P	..... exempt	Waiver to permit Energy Cooperative of America to serve low-income customers	To consider the petition for a waiver
*PSC-37-17-00005-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives.	To consider the revised Interconnection Survey Process and Earnings Adjustment Mechanisms.
*PSC-39-17-00011-P	..... exempt	Whether to direct New York State Electric & Gas to complete electric facility upgrades at no charge to Hanehan.	To determine financial responsibility between NYSEG and Hanehan for the electric service upgrades to Hanehan.
*PSC-42-17-00010-P	..... exempt	Petition for rehearing of negative revenue adjustment and contents of annual Performance Report.	To consider NFGD's petition for rehearing.
*PSC-48-17-00015-P	..... exempt	Low Income customer options for affordable water bills.	To consider the Low Income Bill Discount and/or Energy Efficiency Rebate Programs.
*PSC-50-17-00017-P	..... exempt	New Wave Energy Corp.'s petition for rehearing.	To consider the petition for rehearing filed by New Wave Energy Corp.
*PSC-50-17-00018-P	..... exempt	Application of the Public Service Law to DER suppliers.	To determine the appropriate regulatory framework for DER suppliers.
*PSC-50-17-00019-P	..... exempt	Transfer of utility property.	To consider the transfer of utility property.
*PSC-50-17-00021-P	..... exempt	Disposition of tax refunds and other related matters.	To consider the disposition of tax refunds and other related matters.
*PSC-51-17-00011-P	..... exempt	Petition for recovery of certain costs related to the implementation of a Non-Wires Alternative Project.	To consider Con Edison's petition for the recovery of costs for implementing the JFK Project.
*PSC-04-18-00005-P	..... exempt	Notice of intent to submeter electricity.	To consider the notice of intent of Montante/ Morgan Gates Circle LLC to submeter electricity.
*PSC-05-18-00004-P	..... exempt	Lexington Power's ZEC compliance obligation.	To promote and maintain renewable and zero-emission electric energy resources.
*PSC-06-18-00012-P	..... exempt	To consider further proposed amendments to the original criteria to grandfathering established in the Transition Plan	To modify grandfathering criteria
*PSC-06-18-00017-P	..... exempt	Merger of NYAW and Whitlock Farms Water Corp.	To consider the merger of NYAW and Whitlock Farms Water Company into a single corporate entity
*PSC-07-18-00015-P	..... exempt	The accuracy and reasonableness of National Grid's billing for certain interconnection upgrades.	To consider AEC's petition requesting resolution of their billing dispute with National Grid.



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-11-18-00004-P	..... exempt	New York State Lifeline Program.	To consider TracFone's petition seeking approval to participate in Lifeline.
*PSC-13-18-00015-P	..... exempt	Eligibility of an ESCO to market to and enroll residential customers.	To consider whether Astral should be allowed to market to and enroll residential customers following a suspension.
*PSC-13-18-00023-P	..... exempt	Reconciliation of property taxes.	To consider NYAW's request to reconcile property taxes.
*PSC-14-18-00006-P	..... exempt	Petition for abandonment	To consider the abandonment of Willsboro Bay Water Company's water system
*PSC-17-18-00010-P	..... exempt	Petition for use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
*PSC-18-18-00009-P	..... exempt	Transfer of control of Keene Valley Video Inc.	To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest
*PSC-23-18-00006-P	..... exempt	Whether to impose consequences on Aspiry for its non-compliance with Commission requirements.	To ensure the provision of safe and adequate energy service at just and reasonable rates.
*PSC-24-18-00013-P	..... exempt	Implementation of program rules for Renewable Energy Standard and ZEC requirements.	To promote and maintain renewable and zero-emission electric energy resources.
*PSC-28-18-00011-P	..... exempt	Storm Hardening Collaborative Report.	To ensure safe and adequate gas service.
*PSC-29-18-00008-P	..... exempt	Participation in Targeted Accessibility Fund	To encourage enhanced services for low-income consumers
*PSC-29-18-00009-P	..... exempt	Overvaluing real property tax expense recovery in water rates	To prevent unjust and unreasonable water rates
*PSC-34-18-00015-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and energy efficiency protections are in place.
*PSC-34-18-00016-P	..... exempt	Deferral of pre-staging and mobilization storm costs.	To ensure just and reasonable rates for ratepayers and utility recovery of unexpected, prudently incurred costs.
*PSC-35-18-00003-P	..... exempt	Con Edison's 2018 DSIP and BCA Handbook Update.	To continue Con Edison's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00005-P	..... exempt	NYSEG and RG&E's 2018 DSIP and BCA Handbook Update.	To continue NYSEG and RG&E's transition to modern utilities acting as Distributed System Platform Providers.
*PSC-35-18-00006-P	..... exempt	National Grid's 2018 DSIP and BCA Handbook Update.	To continue National Grid's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00008-P	..... exempt	Central Hudson's 2018 DSIP and BCA Handbook Update.	To continue Central Hudson's transition to a modern utility serving as a Distributed System Platform Provider.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-35-18-00010-P	..... exempt	O&R's 2018 DSIP and BCA Handbook Update.	To continue O&R's transition to a modern utility acting as a Distributed System Platform Provider.
*PSC-39-18-00005-P	..... exempt	Participation in New York State Lifeline Program.	To encourage enhanced services for low-income customers.
*PSC-40-18-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To review the gas utilities' reconciliation of Gas Expenses and Gas Cost Recoveries for 2018.
*PSC-42-18-00011-P	..... exempt	Voluntary residential beneficial electrification rate design.	To provide efficient rate design for beneficial technologies in New York State that is equitable for all residential customers.
*PSC-42-18-00013-P	..... exempt	Petition for clarification and rehearing of the Smart Solutions Program Order.	To address the increased demand for natural gas in the Con Edison's service territory and the limited pipeline capacity.
*PSC-44-18-00016-P	..... exempt	Petition for approval of gas metering equipment.	To ensure that customer bills are based on accurate measurements of gas usage.
*PSC-45-18-00005-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
*PSC-47-18-00008-P	..... exempt	Proposed Public Policy Transmission Needs/ Public Policy Requirements, as defined under the NYISO tariff.	To identify any proposed Public Policy Transmission Needs/Public Policy Requirements for referral to the NYISO.
*PSC-01-19-00013-P	..... exempt	Order of the Commission related to caller ID unblocking.	To require telephone companies to unblock caller ID on calls placed to the 311 municipal call center in Suffolk County.
*PSC-03-19-00002-P	..... exempt	DPS Staff White Paper for who must be trained in 16 NYCRR Part 753 requirements and how the Commission will approve trainings.	To reduce damage to underground utility facilities by requiring certain training and approving training curricula.
*PSC-04-19-00004-P	..... exempt	Con Edison's petition for the Gas Innovation Program and associated budget.	To pursue programs that continue service reliability and meet customer energy needs while aiding greenhouse gas reduction goals.
*PSC-04-19-00011-P	..... exempt	Update of revenue targets.	To ensure NYAW's rates are just and reasonable and accurately reflect the needed revenues.
*PSC-06-19-00005-P	..... exempt	Consideration of the Joint Utilities' proposed BDP Program.	To to expand opportunities for low-income households to participate in Community Distributed Generation (CDG) projects.
*PSC-07-19-00009-P	..... exempt	Whether to impose consequences on AAA for its non-compliance with Commission requirements.	To insure the provision of safe and adequate energy service at just and reasonable rates.
*PSC-07-19-00016-P	..... exempt	Participation in New York State Lifeline Program.	To encourage enhanced services for low-income customers.
*PSC-09-19-00010-P	..... exempt	Non-pipeline alternatives report recommendations.	To consider the terms and conditions applicable to gas service.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-12-19-00004-P	..... exempt	To test innovative pricing proposals on an opt-out basis.	To provide pricing structures that deliver benefits to customers and promote beneficial electrification technologies.
*PSC-13-19-00010-P	..... exempt	New Commission requirements for gas company operator qualification programs.	To make pipelines safer with improved training of workers who perform construction and repairs on natural gas facilities.
*PSC-19-19-00013-P	..... exempt	Proposed merger of three water utilities into one corporation.	To determine if the proposed merger is in the public interest.
*PSC-20-19-00008-P	..... exempt	Reporting on energy sources	To ensure accurate reporting and encourage clean energy purchases
*PSC-20-19-00010-P	..... exempt	Compensation policies for certain CHP projects	To consider appropriate rules for compensation of certain CHP resources
*PSC-20-19-00015-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 105.8 MW electric generating facility	Consideration of a lightened regulatory regime for an approximately 105.8 MW electric generating facility
*PSC-31-19-00013-P	..... exempt	Implementation of Statewide Energy Benchmarking.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
*PSC-31-19-00015-P	..... exempt	Proposed major rate increase in KEDNY's gas delivery revenues by \$236.8 million (13.6% increase in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
*PSC-31-19-00016-P	..... exempt	Proposed major rate increase in KEDLI's gas delivery revenues of approximately \$49.4 million (or 4.1% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
*PSC-32-19-00012-P	..... exempt	Standby Service Rates and Buyback Service Rates	To ensure just and reasonable rates, including compensation, for distributed energy resources
*PSC-38-19-00002-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
*PSC-39-19-00018-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
*PSC-41-19-00003-P	..... exempt	A voluntary residential three-part rate that would include fixed, usage and demand charges.	To provide qualifying residential customers with an optional three-part rate.
*PSC-44-19-00003-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00005-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00006-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00007-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.

## Action Pending Index

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-44-19-00009-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-46-19-00008-P	..... exempt	Wappingers Falls Hydroelectric LLC's facility located in Wappingers Falls, New York.	To promote and maintain renewable electric energy resources.
*PSC-46-19-00010-P	..... exempt	To test innovative rate designs on an opt-out basis.	To implement alternative innovative rate designs intended to assess customer behaviors in response to price signals
*PSC-48-19-00007-P	..... exempt	Extension of the State Universal Service Fund.	To continue to provide universal service at a reasonable rate in certain service territories.
*PSC-50-19-00004-P	..... exempt	Petition to submeter electricity and waiver of energy audit.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
*PSC-52-19-00006-P	..... exempt	Authorization to defer pension settlement losses.	To address the ratemaking related to the pension settlement losses.
PSC-03-20-00009-P	..... exempt	Changes to the Utility Energy Registry	To determine appropriate rules for data availability
PSC-04-20-00014-P	..... exempt	Transfer of the Indian Point site, nuclear waste, and decommissioning and site restoration funds from Entergy to Holtec.	To protect the public interest.
PSC-07-20-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-08-20-00003-P	..... exempt	PSC regulation 16 NYCRR § 86.3(a)(2) and 86.3(b)(2).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
PSC-10-20-00003-P	..... exempt	The Commission's statewide low-income discount policy.	To consider modifications to certain conditions regarding utility low-income discount programs.
PSC-10-20-00005-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Family Energy, Inc. should be granted a waiver to offer two "green gas" products to mass market customers.
PSC-11-20-00006-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-11-20-00008-P	..... exempt	Revisions to the proration tariff language.	To consider revisions to the proration tariff language under Leaf 18.1, 18 61 to 64 and Leaf 69.
PSC-11-20-00011-P	..... exempt	Application of the Public Service Law to owners of a proposed 345 kilovolt (kV) transmission line providing wholesale services.	To determine whether to apply a lightened regulatory regime to the owners of a proposed 345 kV transmission line.
PSC-12-20-00008-P	..... exempt	Delivery rates of Corning Natural Gas Corporation.	Whether to postpone the implementation of a change in rates that would otherwise become effective on June 1, 2020.
PSC-12-20-00010-P	..... exempt	Direct Energy, LLC's Green Gas Products.	To consider whether Direct Energy, LLC should be allowed to offer two Green Gas Products to mass market customers.



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-15-20-00011-P	..... exempt	To modify the terms and conditions under which gas utilities provide service to electric generators.	To provide clarity and uniformity to the provision of gas service to electric generators.
PSC-15-20-00013-P	..... exempt	Ownership of New York American Water Company, Inc.	To consider whether a proposed transfer of ownership of New York American Water Company, Inc. is in the public interest.
PSC-16-20-00004-P	..... exempt	Disposition of a state sales tax refund.	To determine how much of a state sales tax refund should be retained by Central Hudson.
PSC-17-20-00008-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Alpha Gas & Electric, LLC should be permitted to offer its Green Gas Program to mass market customers.
PSC-18-20-00012-P	..... exempt	The purchase price of electric energy and capacity from customers with qualifying on-site generation facilities.	To revise the price to be paid by the Company under Service Classification No. 10. for qualifying purchases of unforced capacity
PSC-18-20-00015-P	..... exempt	Participation of Eligible Telecommunications Carriers (ETCs) in New York State Lifeline Program.	Commission will consider each petition filed by an ETCs seeking approval to participate in the NYS Lifeline program.
PSC-19-20-00004-P	..... exempt	Clarification of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether energy service companies should be permitted to bank RECs to satisfy their renewable energy requirements.
PSC-19-20-00005-P	..... exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation.	To provide cost recovery for new DLM programs and prevent double compensation to participating customers.
PSC-19-20-00009-P	..... exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation.	To consider revisions to P.S.C. No. 10 - Electricity, and P.S.C. No. 12 - Electricity.
PSC-21-20-00005-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Kiwi Energy NY LLC should be permitted to offer its Green Gas Products to mass market customers.
PSC-21-20-00008-P	..... exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-21-20-00011-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether IGS Energy should be allowed to offer a Carbon-Neutral Gas Product and a Home Warranty Service Product.
PSC-23-20-00006-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether IDT Energy, Inc. and Residents Energy, LLC should be permitted to offer Green Gas Products in New York.
PSC-23-20-00007-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether American Power & Gas LLC should be permitted to offer its Green Gas Products to mass market customers.
PSC-23-20-00008-P	..... exempt	Disposition of sales tax refund and other related matters.	To consider the appropriate allocation of the sales tax refund proceeds while balancing ratepayer and shareholder interests.
PSC-23-20-00010-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether AmeriChoice Energy should be permitted to offer its Green Gas Products to mass market customers.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-24-20-00016-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether the NRG Retail Companies should be permitted to offer Green Gas Products in New York.
PSC-24-20-00018-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Atlantic Energy, LLC should be permitted to offer Green Gas Products to mass market customers in New York.
PSC-24-20-00020-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether CenStar Energy, Major Energy Services, and Spark Energy Gas should be permitted to offer Green Gas Products.
PSC-25-20-00009-P	..... exempt	Petition for the use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-25-20-00010-P	..... exempt	Whitepaper regarding energy service company financial assurance requirements.	To consider the form and amount of financial assurances to be included in the eligibility criteria for energy service companies.
PSC-25-20-00011-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-25-20-00012-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-25-20-00014-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether South Bay Energy Corp. should be permitted to offer Green Gas Products to mass market customers in New York.
PSC-25-20-00015-P	..... exempt	Staff whitepaper on a Data Access Framework.	To standardize the necessary privacy and cybersecurity requirements for access to energy-related data.
PSC-25-20-00016-P	..... exempt	Modifications to the Low-Income Affordability program.	To address the economic impacts of the COVID-19 pandemic.
PSC-25-20-00017-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Marathon Energy should be permitted to offer Green Gas Products to mass market customers in New York.
PSC-25-20-00018-P	..... exempt	Staff's whitepaper proposing an IEDR.	To collect and integrate a large and diverse set of energy-related information and data on one statewide platform.
PSC-27-20-00003-P	..... exempt	To make the uniform statewide customer satisfaction survey permanent.	To encourage consumer protections and safe and adequate service.
PSC-28-20-00020-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-28-20-00022-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-28-20-00027-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether the petitioners should be permitted to offer Green Gas Products to mass market customers in New York.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-28-20-00034-P	..... exempt	Petition to implement Section 7(5) of the Accelerated Renewable Energy Growth and Community Benefit Act	To develop the bulk transmission investments necessary to achieve the Climate Leadership and Community Protection Act goals
PSC-29-20-00008-P	..... exempt	Modification to the Commission's Electric Safety Standards.	To consider revisions to the Commission's Electric Safety Standards.
PSC-29-20-00011-P	..... exempt	Petition for waiver of the requirements of Opinion No. 76-17 and 16 NYCRR Part 96 regarding individual metering of living units.	To consider the petition of Opportunities for Broome, Inc for waiver of Opinion No. 76-17 and 16 NYCRR Part 96.
PSC-30-20-00006-P	..... exempt	Petition to submeter electricity and request for waiver of 16 NYCRR § 96.5(k)(3).	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-31-20-00004-P	..... exempt	Submetering of electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-31-20-00008-P	..... exempt	Submetering of electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-31-20-00009-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Kiwi Energy NY LLC should be permitted to offer its Kiwi Guard product to mass market customers in New York.
PSC-31-20-00010-P	..... exempt	Submetering of electricity and waiver of energy audit.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-32-20-00014-P	..... exempt	The term for retention of a monetary crediting methodology.	To provide sufficient revenues to support financing, realize promised benefits from the project, and repay necessary re-work.
PSC-32-20-00015-P	..... exempt	Petition for waiver of the requirements of 16 NYCRR Part 96 regarding individual metering of living units.	To consider the petition of St. Paul's Center to master meter and for waiver of 16 NYCRR Part 96.
PSC-34-20-00004-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit requirement.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-34-20-00005-P	..... exempt	Petition to provide a renewable, carbon-free energy option to residential and small commercial full-service customers.	To increase customer access to renewable energy in the Consolidated Edison Company of New York, Inc. service territory.
PSC-34-20-00006-P	..... exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-35-20-00015-P	..... exempt	Request for waiver of 16 NYCRR 96.5(k)(3).	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-35-20-00016-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-35-20-00017-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether petitioner should be permitted to offer green gas products to mass market customers in New York.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-36-20-00006-P	..... exempt	A debt financing arrangement with respect to a proposed 345 kilovolt (kV) transmission line providing wholesale services.	To consider the requested financing arrangement, and if approved, what regulatory conditions should apply.
PSC-37-20-00006-P	..... exempt	Con Edison's petition for a proposed Non-Pipeline Solutions portfolio and associated budget.	To provide for continued service reliability and to meet customer energy needs while addressing greenhouse gas reduction goals.
PSC-38-20-00003-P	..... exempt	Minor Rate Filing	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-38-20-00004-P	..... exempt	The annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.
PSC-39-20-00014-P	..... exempt	Tariff filing.	To determine if New York State Electric & Gas Corporation's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00015-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-39-20-00016-P	..... exempt	Tariff filing.	To determine if Central Hudson Gas & Electric Corporation's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00017-P	..... exempt	Tariff filing.	To determine if National Grid's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00018-P	..... exempt	Tariff filing.	To determine if Rochester Gas and Electric Corporation's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00019-P	..... exempt	Tariff filing.	To determine if Orange and Rockland Utilities, Inc.'s tariff filing is consistent with the law and in the public interest.
PSC-39-20-00020-P	..... exempt	Tariff filing.	To determine if Consolidated Edison Company of New York's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00021-P	..... exempt	Authority to issue to long-term debt.	To consider Corning's request for authority to issue long-term debt.
PSC-39-20-00022-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-40-20-00003-P	..... exempt	NYSEG's petition for a proposed Non-Pipeline Alternatives portfolio of projects and associated budget.	To provide for continued service reliability and to meet customer energy needs while addressing greenhouse gas reduction goals.
PSC-40-20-00004-P	..... exempt	Minor rate filing.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-40-20-00005-P	..... exempt	Electric Generation Facility Cessation Mitigation Program Funding	To develop a funding mechanism for the Electric Generation Facility Cessation Mitigation Program.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-40-20-00006-P	..... exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-40-20-00007-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether the petitioner should be permitted to offer green gas and home warranty products to mass market customers.
PSC-40-20-00008-P	..... exempt	A benefit for electric utility customers in communities that host a major renewable energy facility.	To consider a just and reasonable benefit for electric utility customers in renewable host communities.
PSC-40-20-00009-P	..... exempt	Amendments clarifying the sharing of revenue from the Energy Storage Program.	To ensure that Con Edison's tariff is clear regarding sharing of revenue when annual wholesale revenues exceed contract costs.
PSC-40-20-00010-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether the petitioner should be permitted to offer green gas and home warranty products to mass market customers.
PSC-41-20-00010-P	..... exempt	Disposition of a \$50 million municipal tax refund	To consider a disposition of a municipal tax refund for customer and company benefit
PSC-41-20-00011-P	..... exempt	Major gas rate filing.	To consider a proposed increase in Con Edison's gas delivery revenues of approximately \$6.3 million (23.4% in total revenues).
PSC-41-20-00012-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-41-20-00013-P	..... exempt	The proposed transfer of a Certificate of Environmental Compatibility and Public Need.	Consideration of whether the proposed transfer is in the public interest.
PSC-42-20-00006-P	..... exempt	Proposed major rate increase in National Grid's delivery revenues of approximately \$41.8 million (or 9.8% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-42-20-00007-P	..... exempt	Transfer of ownership interests and facilities associated with three nuclear generating units, funds, and storage facilities.	To ensure appropriate regulatory review, oversight, and action concerning the proposed transfer to serve the public interest.
PSC-42-20-00008-P	..... exempt	Availability of gas leak information to the public safety officials.	Facilitate availability of gas leak information to public safety officials by gas corporations.
PSC-42-20-00009-P	..... exempt	Proposed major rate increase in National Grid's delivery revenues of approximately \$100.4 million (or 3.2% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-43-20-00003-P	..... exempt	The use of \$50 million to support residential and commercial customers experiencing financial hardship	To consider whether the proposed support of ratepayers is in the public interest
PSC-44-20-00004-P	..... exempt	Changes to PSL Section 66-p relating to billing information for residential rental premises.	To establish provisions as necessary to effectuate PSL Section 66-p.
PSC-44-20-00005-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-44-20-00006-P	..... exempt	Transfer of property interests in the Union Falls Hydroelectric Facility.	To determine whether to authorize the transfer of the Union Falls Hydroelectric Facility and the proper accounting treatment.



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-44-20-00007-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 90.5 MW electric generating facility.	Consideration of a lightened regulatory regime for an approximately 90.5 MW electric generating facility.
PSC-44-20-00008-P	..... exempt	Lease of right-of-way and transfer of facilities.	To determine whether to authorize lease of right-of-way, transfer of facilities and the proper accounting treatment.
PSC-44-20-00009-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit requirement.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-44-20-00010-P	..... exempt	Transfer of natural gas pipeline facilities and ownership interests in those facilities, and an applicable regulatory regime.	To ensure appropriate regulatory review, oversight, and action concerning the proposed transfers and the facility owners.
PSC-45-20-00003-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-45-20-00004-P	..... exempt	Major gas rate filing	To consider an increase in Central Hudson's gas delivery revenues
PSC-45-20-00005-P	..... exempt	Major electric rate filing	To consider an increase in Central Hudson's electric delivery revenues
PSC-45-20-00006-P	..... exempt	Petition to submeter electricity and waiver request	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
PSC-46-20-00004-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-46-20-00005-P	..... exempt	The recommendations of the DPS Staff report to improve Hudson Valley Water's service.	To determine if approving the DPS Staff's recommendations is in the public interest.
PSC-46-20-00006-P	..... exempt	Amendments to the SIR.	To more effectively interconnect distributed generation and energy storage Systems 5 MW or less to the distribution system.
PSC-46-20-00007-P	..... exempt	Compliance of New York Transco LLC with the applicable portions of the Electric Safety Standards.	To consider the petition of New York Transco LLC for clarification of its responsibilities under the Electric Safety Standards.
PSC-46-20-00008-P	..... exempt	Compliance report by electric utilities on developing distribution and local transmission in accordance with the AREGCB Act.	To support distribution and local transmission investments necessary to achieve the the State's climate goals.
PSC-46-20-00009-P	..... exempt	Proposed Public Policy Transmission Needs/ Public Policy Requirements, as defined under the NYISO tariff.	To identify any proposed Public Policy Transmission Needs/Public Policy Requirements for referral to the NYISO.
PSC-47-20-00006-P	..... exempt	Notice of intent to submeter electricity and request for waiver of 16 NYCRR § 96.5(k)(3).	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-47-20-00007-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-47-20-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-48-20-00004-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-20-00005-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Chief Energy Power, LLC should be permitted to offer green gas products to mass market customers.
PSC-48-20-00006-P	..... exempt	PSC regulations 16 NYCRR 86.3(a)(2); 86.3(a)(2)(iv) and 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
PSC-48-20-00007-P	..... exempt	Tariff modifications to change National Fuel Gas Distribution Corporation's Monthly Gas Supply Charge provisions.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-48-20-00008-P	..... exempt	Proposed modifications to Rider T - Commercial Demand Response Program.	To consider revisions to Rider T - CDRP for the 2021 Capability Period.
PSC-48-20-00009-P	..... 12/02/21	Siting of major transmission facilities in new or existing rights of way that qualify for expedited process.	To establish expedited requirements for the siting, construction and operation of major transmission facilities.
PSC-49-20-00007-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-49-20-00008-P	..... exempt	Amendments to modify provisions related to Emergency Electric Generators under General Information Section III (H).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-49-20-00009-P	..... exempt	Transfer of certain electric transmission facilities and easements.	To determine whether to authorize the proposed transfers and the proper accounting treatment.
PSC-49-20-00010-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-50-20-00004-P	..... exempt	Proposed transfer of the Company's assets to the Purchasers.	To determine if transfer of the water system to the Purchasers is in the public interest.
PSC-51-20-00006-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit requirement.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-51-20-00007-P	..... exempt	Whitepaper on the ACOS method used by utilities in developing Standby and Buyback Service rates.	To standardize the utility ACOS methods and resulting rates, and to enable stand-alone energy storage systems.
PSC-51-20-00008-P	..... exempt	The New York State Reliability Council's establishment of an Installed Reserve Margin of 20.7%	To ensure adequate levels of Installed Capacity.
PSC-51-20-00009-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether petitioner should be permitted to offer its "Energy Savings Program" to mass market customers.
PSC-51-20-00010-P	..... exempt	Petition to submeter electricity and request for waiver.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-51-20-00011-P	..... exempt	Lease of right-of-way and transfer of facilities.	To determine whether to authorize lease of right-of-way, and transfer of facilities and the proper accounting treatment.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-51-20-00012-P	..... exempt	Notice of intent to submeter electricity and request for waiver.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-51-20-00013-P	..... exempt	Competitive solicitations to procure 350mw of energy storage systems directed by the Commission's 2018 Energy Storage Order.	To ensure compliance with Public Service Law Section 74 and achieve state goals to install energy storage systems.
PSC-51-20-00014-P	..... exempt	Electric system needs and compensation for distributed energy resources.	To ensure safe and adequate service and just and reasonable rates, including compensation, for distributed energy resources.
PSC-52-20-00002-P	..... exempt	Petition for the use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
PSC-52-20-00003-P	..... exempt	Notice of intent to submeter electricity and waiver request.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-52-20-00004-P	..... exempt	Use of pipeline refund.	To consider how a pipeline refund of \$2.26 million will be utilized by National Fuel.
PSC-52-20-00005-P	..... exempt	Clarification or reconsideration of a provision in a prior order.	To determine whether to clarify or reconsider a provision of a prior order regarding the implementation of Green Button Connect.
PSC-52-20-00006-P	..... exempt	Banked credit distribution rules and processes.	To ensure just and consistent banked credit distribution rules and processes.
PSC-52-20-00007-P	..... exempt	Negative performance factor adjustments applied to auto-dynamic load management and term-dynamic load management participants.	To improve multi-year and auto-DLM programs that will improve demand response program offerings.
PSC-52-20-00008-P	..... exempt	Transfer of a natural gas pipeline and the associated certificate, and application of lightened and incidental regulation.	To determine whether the requested transfers and regulatory treatment are consistent with the law and the public interest.
PSC-52-20-00009-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-52-20-00010-P	..... exempt	Proposed filing regarding capacity surcharge for ESCO transportation customers.	To ensure safe and reliable service for customer at just and reasonable rates.
PSC-52-20-00011-P	..... exempt	Petition for the use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
PSC-52-20-00012-P	..... exempt	The upgrading of cellular antennas on an electric transmission tower.	To determine whether the upgrading of cellular antennas on an electric transmission tower is in the public interest.
PSC-52-20-00013-P	..... exempt	Changes to PSL Section 66-p relating to billing information for residential rental premises.	To establish provisions as necessary to effectuate PSL Section 66-p.
PSC-52-20-00014-P	..... exempt	The upgrading of cellular antennas on an electric transmission tower.	To determine whether the upgrading of cellular antennas on an electric transmission tower is in the public interest.
PSC-52-20-00015-P	..... exempt	The upgrading of cellular antennas on an electric transmission tower.	To determine whether the upgrading of cellular antennas on an electric transmission tower is in the public interest.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-52-20-00016-P	..... exempt	Waiver of 16 NYCRR Sections 86.3(a)(1), 86.3(a)(2), and 86.3(b)(2).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
PSC-52-20-00017-P	..... exempt	Enwave Syracuse LLC and Syracuse Energy Concessionaire LLC's proposed financing.	To review the proposed financing and consider whether it is within the public interest.
PSC-01-21-00004-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether petitioner should be permitted to offer its Home Warranty product to mass market customers.
PSC-01-21-00005-P	..... exempt	Changes to PSL Section 66-p relating to billing information for residential rental premises.	To establish provisions as necessary to effectuate PSL Section 66-p.
PSC-01-21-00006-P	..... exempt	A debt financing arrangement with respect to an electric transmission line under development.	To review the proposed financing and consider whether it is within the public interest.
PSC-01-21-00007-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-01-21-00008-P	..... exempt	The revision of certain delivery rates for electric service.	To ensure safe and reliable service for customers at just and reasonable rates.
<b>STATE, DEPARTMENT OF</b>			
DOS-37-20-00015-P	..... 09/16/21	Siting of major renewable energy facilities	To establish procedural requirements for permits for siting, construction and operation of major renewable energy facilities
DOS-37-20-00016-P	..... 11/29/21	Siting permits for major renewable energy facilities	To establish uniform standards and conditions for siting, design, construction & operation of major renewable energy facilities
DOS-41-20-00001-P	..... 10/14/21	Public Playground Safety	Update public playground safety standards
DOS-48-20-00010-P	..... 12/02/21	Procedures and requirements related to the filing of certificates by the Department of State's Division of Corporations	To clarify and update procedures related to the filing of certificates with the Division of Corporations
DOS-51-20-00004-P	..... 12/23/21	Fair Housing Requirements for Appraisers and Assistant Appraisers	To Mandate Fair Housing Education as a Condition of Renewal
<b>STATE UNIVERSITY OF NEW YORK</b>			
SUN-53-19-00005-P	..... 04/01/21	Proposed amendments to the traffic and parking regulations at State University Agricultural and Technical College at Morrisville	Amend existing regulations to update traffic and parking regulations
SUN-29-20-00004-EP	..... 07/22/21	State basic financial assistance for the operating expenses of community colleges under the program of SUNY and CUNY	To modify limitations formula for basic State financial assistance and remove an operating support "floor"
SUN-29-20-00005-EP	..... 07/22/21	Student Assembly Elections, Student Assembly Officers, Campus Government Elections, Student Activity Fees	To postpone voting on student activity fees and elections of Student Assembly representatives and officers until Fall 2020

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>STATE UNIVERSITY OF NEW YORK</b>			
SUN-37-20-00002-EP	09/16/21	Appointment of Employees; Eligibility	To allow for the addition of one year to the service limits for current faculty to attain continuing appointment
<b>STATEN ISLAND RAPID TRANSIT OPERATING AUTHORITY</b>			
SIR-39-20-00008-EP	09/30/21	Requiring mask wearing covering the nose and mouth when using terminals, stations and trains operated by SIRTOA.	To safeguard the public health and safety by amending rules to require the use of masks when using terminals and stations.
<b>TAXATION AND FINANCE, DEPARTMENT OF</b>			
TAF-46-20-00003-P	exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith	To set the sales tax component and the composite rate per gallon for the period January 1, 2021 through March 31, 2021
TAF-51-20-00002-EP	12/23/21	Metropolitan Transportation Business Tax Surcharge	To provide metropolitan transportation business tax rate for tax year 2021
<b>TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF</b>			
TDA-16-20-00012-P	04/22/21	New York State Combined Application Project (NYSCAP)	To implement the NYSCAP, a new combined application project for recipients of Supplemental Security Income benefits, who have been designated as Live-Alone by the Social Security Administration and the State-funded SSI State Supplement Program
TDA-26-20-00007-P	07/01/21	Supplemental Security Income (SSI) Additional State Payments	To clarify who participates, the intended uses for benefits, that benefits won't be issued once a death is verified, time frames to report and circumstances when underpayment/retroactive benefits will issue, and NYS operates SSP under State rules
TDA-39-20-00024-EP	09/30/21	Standard Utility Allowances (SUAs) for the Supplemental Nutrition Assistance Program (SNAP)	These regulatory amendments set forth the federally-approved SUAs as of 10/1/20
TDA-46-20-00002-P	11/18/21	Payment access cards	To update State regulations pertaining to payment access cards to align with Part V of Chapter 56 of the Laws of 2020
<b>THRUWAY AUTHORITY, NEW YORK STATE</b>			
THR-42-20-00013-P	10/21/21	Amend the Authority's rules in relation to Grand Island Bridges sidewalks and Governor Mario M Cuomo Bridge Shared Use Path	To regulate certain activities on the Grand Island Bridges sidewalks and Governor Mario M Cuomo Bridge Shared Use Path
<b>TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY</b>			
TBA-50-20-00005-P	exempt	A proposal to establish a new crossing charge schedule for use of bridges and tunnels operated by TBTA	A proposal to raise additional revenue
<b>WORKERS' COMPENSATION BOARD</b>			
WCB-23-20-00004-P	06/10/21	EDI system updates	To require carriers to report certain credits taken for payments to claimants; biannual reports; EDI 3.1 updates



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>WORKERS' COMPENSATION BOARD</b>			
WCB-28-20-00003-EP	07/15/21	Adding COVID-19 diagnosis by a health care provider as a serious health condition for purposes of Paid Family Leave	To clarify that employees may take PFL to care for a family member with COVID-19
WCB-42-20-00004-P	10/21/21	Medical Treatment Guidelines	To add PTSD and acute stress disorder, and major depressive disorder MTGs
WCB-42-20-00005-P	10/21/21	Medical Treatment Guidelines	To add PTSD and acute stress disorder, and major depressive disorder MTGs
WCB-42-20-00010-P	10/21/21	Requesting prior approval for medical treatment and care	To implement an internet portal-based submission and review process
WCB-42-20-00012-P	10/21/21	DME Fee Schedule	To replace DME fee schedule, update fees; create prior authorization process
WCB-48-20-00002-EP	12/02/21	Reimbursement for COVID-19 testing	To allow reimbursement for COVID-19 testing when benefits are sought due to workplace exposure to COVID-19



# REGULATORY AGENDA

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## Education Department

Pursuant to section 202-d of the State Administrative Procedure Act, the State Education Department presents its regulatory agenda for calendar year 2021. All section and part references are to Title 8 of the New York Code of Rules and Regulations. The State Education Department reserves the right to add, delete or modify, without further notice, except as required by the State Administrative Procedure Act, any item or information presented herein as relating to the 2021 Regulatory Agenda.

### OFFICE OF P-12 EDUCATION

Amendment of section 100.2(i) of the Commissioner's Regulations to allow the reporting of complaints about the use of corporal punishment by BOCES, district or charter school personnel to be done once a year. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to section 100.2 (y)(3) to require that school districts, when notifying parents that students are not residents of the district, must, wherever practicable, specify which district they may be entitled to enroll in. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to Section 100.5 (b) to allow districts to develop and implement Arts and Health coursework and curriculum without the approval of the State Education Department. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required.

Amendment of section 100.3 of the Commissioner's Regulations relating to the PreK-4 Program requirements to reflect the adoption of the new and revised Learning Standards. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4 of the Commissioner's Regulations relating to program requirements in grades 5-6 to reflect the adoption of the new and revised Learning Standards. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendments to section 100.2(l) of the Commissioner's Regulations relating to school conduct and discipline to address the topics of progressive discipline, restorative practices, and equity in school discipline. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendments to section 100.5(d)(8) regarding requirements for the award of make-up credit to include educational programs administered or supervised by a state agency. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendments to section 100.5(d)(9) regarding requirements for independent study to include educational programs administered or supervised by a state agency. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(d) of the Commissioner's Regulations relating to grade eight acceleration for diploma credit. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5(a), (b) and (c) of the Commissioner's Regulations relating to graduation and diploma requirements. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to section 100.10 (h) of the Commissioner's Regulations to expand and/or modify the list of annual assessments to be utilized by home instructed students. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Addition of section 100.22 of the Commissioner's Regulations relating to students in foster care. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 114.3 of the Commissioner's Regulations related to bidding exemptions for direct purchasing to include a board of cooperative educational services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 117 of the Commissioner's Regulations relating to diagnostic screening for students who are new entrants, or who have low test scores in reading or mathematics. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 119.1 of the Commissioner's Regulations relating to financing of charter schools to correct a citation and address statutory changes. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 119.4 of the Commissioner's Regulations relating to the location and timelines for charter school hearings. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 119.5 of the Commissioner's Regulations relating to charter school preferences. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Addition of a new Part 123 of the Regulations of the Commissioner of Education relating to the requirements for a basic educational data system code for nonpublic school sites. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 125 of the Commissioner's Regulations relating to the requirements for the voluntary registration of nonpublic nursery schools and kindergartens. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 144.11 of the Commissioner's Regulations to eliminate the requirement that school districts have an Early Grade Class Size Reduction Plan. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Subpart 151-1 of the Commissioner's Regulations to consolidate and update the provisions governing the Universal Pre-kindergarten Program, consistent with statutory amendments and program implementation. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 155.12 of the Regulations of the Commis-

sioner of Education relating to lease approval and building aid for leased school buildings and facilities by school districts. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 155.17 of the Regulations of the Commissioner of Education relating to annual training requirements for staff. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Repeal of section 155.22 of the Regulations of the Commissioner of Education relating to Qualified Zone Academy Bonds and Qualified School Construction Bonds. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 155.23 of the Regulations of the Commissioner of Education relating to multi-year cost allowance. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Addition of Section 175.14 of the Commissioner's Regulations Relating to the reimbursement for prekindergarten pupils under the McKinney-Vento Homeless Assistance Act

Amendment of sections 200.1(x), 200.5(j) and 200.16(h) of the Commissioner's Regulations relating to the impartial due process hearing procedures, including the provisions relating to prehearing conferences and impartial hearing officer qualifications and impartiality, and as may be necessary to conform to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.2 of the Regulations of the Commissioner of Education relating to least restrictive environment placements of students with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of 200.5(l) of the Regulations of the Commissioner of Education relating to appeals of State complaint findings. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 200.7 and 200.16 of the Commissioner's Regulations relating to preschool program approval for school districts, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 200.7(b) and 200.13 of the Commissioner's Regulations relating to length of school day. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Section 200.9 of the Commissioner's Regulations relating to tuition rates for approved special class integrated setting programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.16(i) of the Commissioner's Regulations relating to preschool continuum of services and preschool inclusion in early childhood programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.21(b) of the Commissioner's Regulations relating to procedures for the suspension or revocation of impartial hearing officer certification. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 3.16(c)(1) of the Rules of the Board of Regents to update delegation of authority with respect to the approval of changes to certain charter school revisions. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 3.17(a)(3) of the Rules of the Board of Regents to update the revocation proceeding and to allow the Board of Regents to appoint a representative to hear oral arguments on behalf of the Board of Regents and to make a determination in regard to such oral argument. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 3.17(a)(3) of the Rules of the Board of Regents to update the revocation proceeding to revoke the certificate

of incorporation after the assets of the education corporations have been discharged. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting: Kimberly Young Wilkins, Deputy Commissioner for P12 Instructional Support, Education Department, Rm. 875, Education Bldg. Annex, 89 Washington Ave., Albany, NY 12234, (518) 486-1954, nysedp12@nysed.gov

OFFICE OF HIGHER EDUCATION

Amendment of section 50.1 of the Commissioner's Regulations to include a definition of a remedial course and a compensatory course as needed under sections 6451 and 6452 of the Education Law. A rural area flexibility analysis and regulatory flexibility analysis may be required.

Amendment of Parts 50 and 52 of the Commissioner's Regulations concerning registration of undergraduate and graduate postsecondary curricula. A rural area flexibility analysis and regulatory flexibility analysis may be required.

Amendment of Parts 52 and 80 of the Commissioner's Regulations to require all prospective teachers to complete coursework on English Language Learner instructional needs, co-teaching strategies, and integrating language and content instruction for English Language Learners. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 53 of the Commissioner's Regulations concerning information for students and prospective students. A rural area flexibility analysis and regulatory flexibility analysis may be required.

Amendment of section 50.1(l) of the Commissioner's Regulations to revise the definition of "university." A rural area flexibility analysis and regulatory flexibility analysis may be required.

Amendment of Part 4 of the Rules of the Board of Regents concerning voluntary institutional accreditation for Title IV purposes, to align with federal requirements. A rural area flexibility analysis and regulatory flexibility analysis may be required.

Amendment of section 3.12(e) of the Rules of the Board of Regents concerning the composition of the institutional accreditation appeals board. A rural area flexibility analysis and regulatory flexibility analysis may be required.

Amendment of section 3.56 of the Rules of the Board of Regents concerning consent of the Board of Regents to operation in New York by institutions of higher education operating outside of New York to revise the definition of program, to clarify the terms concerning approval of additional programs, and to clarify the terms concerning the submission of new applications. A rural area flexibility analysis and regulatory flexibility analysis may be required.

Amendment of section 49-2 of the Commissioner's Regulations concerning approval of out-of-state post-secondary institutions to offer distance education to New York State residents to revise provisions concerning financial responsibility index score, waiver of eligibility requirements, and the timeframe by which an institution that has been disapproved, may reapply to the department. A rural area flexibility analysis and regulatory flexibility analysis may be required.

Amendment of section 52.2(f) of the Commissioner's Regulations specifying the academic content of a transcript prepared by an Institution of higher education. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 52.21 and 80-3.7 of the Commissioner's Regulations relating to the content core requirement for the computer science certificate in teacher preparation programs and the individual evaluation pathway to certification. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 80-5.5 of the Commissioner's Regulations relating to the employment of retired employees and eligibility for section 211 waivers. A regulatory flexibility analysis and a rural flexibility analysis may be required.

Amendment of Part 135 of the Commissioner's Regulations to

clarify the due process procedures relative to coaching licenses. A regulatory flexibility analysis and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations section 145-2.1(a)(iii) to provide a definition of remedial course(s). A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations section 145-2.2 to provide a definition of the term "the recognized equivalent of such certificate" as found in Education Law section 661(4)(f) for the purposes of determining eligibility for the NYS Tuition Assistance Program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations section 145-2.15(b)(3) to clarify and establish jurisdiction over a student at the time of the completion of secondary education. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations section 145-2.15(b)(2) to clarify the federally approved ability to benefit test administration for the \*purposes of the NYS Tuition Assistance Program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations section 152-1.2 to insert language concerning remedial, developmental, and compensatory courses. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations Section 152-1.1 to amend applications to clarify that each application shall include the provision of a summer program that shall occur at the beginning of the program year and to update obsolete processes and language. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations Section 153-3.4 to amend funding to clarify how the foster youth college success initiative funding awarded can be used. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations Part 50 and Part 54 to amend the definitions and procedures related to off-campus instruction and locations. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

#### Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting: William P. Murphy, Deputy Commissioner for Higher Education, Education Department, Office of Higher Education, Rm. 975, Education Bldg. Annex, 89 Washington Ave., Albany, NY 12234, (518) 4402-3620, OHEREGComments@nysed.gov

#### OFFICE OF THE PROFESSIONS

Amendment of Part 29 of the Regents Rules relating to definitions of unprofessional conduct in the public accountancy and certified public accountancy professions. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment Section 3.57 of the Regents Rules relating to the conferral of the degree of doctor of medicine (M.D.) by the Board of Regents to update the outdated regulation. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Parts 52-13 70 of the Commissioner's Regulations relating to the definitions of public accountancy, mandatory peer review program for firms, professional education and experience requirements for licensure, the registration of curricula for accountancy, and continuing education requirements in the profession of public accountancy. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 29 of the Regents Rules relating to definitions of unprofessional conduct in the new profession of "registered pharmacy technicians" and special provisions for this profession. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 63 of the Commissioner's Regulations to add a new profession entitled "registered pharmacy technicians," to establish educational and other licensure requirements for registered pharmacy technicians and to protect the title "registered pharmacy technician." A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment to section 52.14 and 73.1 of the Commissioner's Regulations relating to the preprofessional educational admission requirements for colleges of chiropractic. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 70 of the Commissioner's Regulations relating to the definitions of public accountancy and continuing education requirements in the profession of public accountancy. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 64 of the Commissioner's Regulations relating to implementing statutory provisions that permit a registered professional nurse to execute a standing order for newborn care in a hospital established under Public Health Law § 2803-v, as provided in that section.

Amendment of Parts 52, 68.4, 68.6(a.) of the Commissioner's Regulations relating to implementing statutory provisions that update the education requirements for licensure as a land surveyor. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

#### Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting: Sarah S. Benson, Deputy Commissioner for the Professions, Education Department, Office of the Professions, 89 Washington Ave., West Wing, Second Fl., Education Bldg., Albany, NY 12234, (518) 474-1431, opdepcom@nysed.gov

#### OFFICE OF CULTURAL EDUCATION

Amendment of Part 90 of the Commissioner's Regulations, relating to the library and library system programs and services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

#### Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above proposed amendment by contacting: Lauren Moore, Assistant Commissioner for Libraries and State Librarian, Education Department, New York State Library, Rm. 10C34, Albany, NY 12230, (518) 474-5930, Lauren.Moore@nysed.gov

Amendment of Part 188 of the Commissioner's Regulations related to state government archives and records management to update the agency fee list to match the current organizational structure of executive branch agencies. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 188 of the Commissioner's Regulations related to state government archives and records management to update the annual fees for storage of records in a records center facility. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

#### Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting: Tom Ruller, Assistant Commissioner for the State Archives, Education Department, Rm. 9B52, Cultural Education Center, Albany, NY 12230, (518) 474-6926, recmgmt@nysed.gov

#### OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

Amendments to Part 126 of the Commissioner's Regulations related to annual data collection and reporting, annual financial reporting, and standards for fiscal responsibility for Licensed Private Career Schools and for-profit English as Second Language schools licensed under this part. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required.



## Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the modification or continuation of any of the above rules by contacting: Ceylane Meyers-Ruff, Assistant Commissioner, Office of Adult Career and Continuing Education Services, Rm. 575 EBA, 89 Washington Ave., Albany, NY 12234, (518) 474-2714, [ACCESDeputy@nysed.gov](mailto:ACCESDeputy@nysed.gov)

## OFFICE OF MANAGEMENT SERVICES

Amendment of Parts 275 and 276 of the Commissioner's Regulations relating to appeals to the Commissioner. A regulatory flexibility analysis and/or a rural area flexibility analysis may be required.

## Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting: Julia Patane, Assistant Counsel, Office of Counsel, State Education Building, Rm. 112, 89 Washington Ave., Albany, NY 12234, (518) 474-6400, [legal@nysed.gov](mailto:legal@nysed.gov)

## Department of Environmental Conservation

## Introduction

Each year, pursuant to SAPA, the Department publishes a Regulatory Agenda in the State Register and on its website. This is a listing of the regulations that may be proposed for adoption or amendment within that calendar year.

## Division of Air Resources

6 NYCRR Part 200, "General Provisions." Section 200.1 will be amended to update the definition for volatile organic compound and the associated list of compounds that are not volatile organic compounds. This rulemaking would require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Carlos Mancilla, NYS Department of Environmental Conservation, 625 Broadway, Albany, New York, 12233-3251. Telephone 518-402-8396. Email: [air.regs@dec.ny.gov](mailto:air.regs@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 200, "General Provisions." Section 200.10 will be amended to incorporate by reference the United States Environmental Protection Agency's Outer Continental Shelf Air Regulations, 40 Code of Federal Regulations Part 55. This rulemaking would require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Steve Yarrington, NYS Department of Environmental Conservation, 625 Broadway, Albany, New York, 12233-3254. Telephone 518-402-8403. Email: [air.regs@dec.ny.gov](mailto:air.regs@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 200, "General Provisions." Section 200.10 will be amended to update the list of federal air regulations for which the Department has incorporated by reference. This rulemaking would require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Steve Yarrington, NYS Department of Environmental Conservation, 625 Broadway, Albany, New York, 12233-3254. Telephone 518-402-8403. Email: [air.regs@dec.ny.gov](mailto:air.regs@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 203, "Oil and Gas Sector Emissions." This is a new regulation to reduce methane emissions and associated volatile organic compound (VOC) emissions from the oil and gas sector. This regulation is part of the State's Methane Reduction Plan and will also address and expand upon the United States Environmental Protection Agency's control technique guideline for VOC emissions from this sector. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Ona Papageorgiou, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: [air.regs@dec.ny.gov](mailto:air.regs@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 206, "State Aid for General Air Pollution Control Work, New York City" is obsolete and will be repealed. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses

and Local Governments and a Rural Area Flexibility Analysis. Contact: Amanda Chudow, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: [air.regs@dec.ny.gov](mailto:air.regs@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 212, "Process Operations." This proposal will repeal Subpart 212-4, "Control of Nitrogen Oxides for Hot Mix Asphalt Production Plants" and create a new regulation to specifically address the emissions of particulate, carbon monoxide, sulfur dioxide, nitrogen oxides (NOx) and High Toxicity Air Contaminants (HTAC) such as formaldehyde, benzene and polycyclic aromatic hydrocarbons. The anticipated regulation will enact stricter requirements for new sources built after the applicability date while addressing emissions from existing facilities with requirements that are easily implemented, from Region to Region. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis and a Job Impact Analysis. Contact: Steven DeSantis, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8402. E-mail: [air.regs@dec.ny.gov](mailto:air.regs@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 218, "Revisions to Part 218, Emission Standards For Motor Vehicles and Motor Vehicle Engines", and Section 200.9 (incorporation by reference) to incorporate the State of California's Advanced Clean Truck (ACT) regulation, Heavy-duty Low NOx Omnibus regulation, and existing heavy-duty vehicle emission standards. This adoption would include the incorporation of California's medium-duty criteria pollutant standards and adopt California's heavy-duty criteria and greenhouse gas standards, along with its emissions warranty and recall standards. Adoption of these California regulations is necessary to maintain identicality for a given weight class as required by Section 177 of the federal Clean Air Act. These amendments will be effective starting with model year 2025, which begins as early as January 2, 2024. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: James Symon, P.E., New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-3255. Telephone: 518-402-8292. E-mail: [air.regs@dec.ny.gov](mailto:air.regs@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 220: Revisions to Subpart 220-1, "Portland Cement Plants," will include minor changes to better align with federal regulations and reduce monitoring costs. Subpart 220-3, "Hot Mix Asphalt Plants," will be a new regulation, replacing Subpart 212-4, to reduce criteria and non-criteria pollutants from asphalt plants. Subpart 220-3 is intended to streamline compliance for this source category while requiring best available control technologies. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Mike Miliani, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8403. E-mail: [air.regs@dec.ny.gov](mailto:air.regs@dec.ny.gov). Please include the Part number when e-mailing.

6 NYCRR Subpart 228-3, "Motor Vehicle and Mobile Equipment Repair and Refinishing" (MVMERR). MVMERR requirements will be moved from existing Subpart 228-1, "Surface Coating Facilities," into new Subpart 228-3. The volatile organic compound limits for MVMERR categories will be reduced as a result of this rulemaking. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Marie Barnes, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: [air.regs@dec.ny.gov](mailto:air.regs@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 247, "Outdoor Wood Boilers." The existing regulation will be amended to address revised emission standards and emerging certification testing methods for residential wood combustion devices. As a result, new Part 247 will encompass a wider range of appliances compared to the existing rule. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Kenneth

Newkirk, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: [air.regs@dec.ny.gov](mailto:air.regs@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 250, "Miscellaneous Orders" is obsolete and will be repealed. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Amanda Chudow, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: [air.regs@dec.ny.gov](mailto:air.regs@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 256, "Air Quality Classification Systems" is obsolete and will be repealed. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Amanda Chudow, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: [air.regs@dec.ny.gov](mailto:air.regs@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Parts 260-317, "Albany County, Allegany County, Broome County, Cattaraugus County, Cayuga County, Chautauqua County, Chemung County, Columbia County, Cortland County, Delaware County, Dutchess County, Erie County, Essex County, Franklin County, Fulton County, Genesee County, Green County, Hamilton County, Herkimer County, Jefferson County, Lewis County, Livingston County, Madison County, Monroe County, Montgomery County, Nassau County, New York City, Niagara County, Oneida County, Onondaga County, Ontario County, Orange County, Orleans County, Oswego County, Otsego County, Putnam County, Rensselaer County, Rockland County, St. Lawrence County, Saratoga County, Schoenectady County, Schoharie County, Schuyler County, Seneca County, Steuben County, Suffolk County, Sullivan County, Tioga County, Tompkins County, Ulster County, Warren County, Washington County, Wayne County, Westchester County, Wyoming County, and Yates County," respectively under Subchapter C: "Air Quality Area Classifications," are obsolete and will be repealed. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Amanda Chudow, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: [air.regs@dec.ny.gov](mailto:air.regs@dec.ny.gov). Please include the Part number when emailing.

#### Division of Environmental Permits

6 NYCRR Part 621, Uniform Procedure Act (UPA). Part 621 was last substantially amended in 2006. Since that time several statutes and regulations that interface with Part 621 have been changed or amended. The Department proposes to update the main text of Part 621 to align with those changes. Also, several clarifications and corrections are proposed to correct inaccurate references and clarify permitting procedures. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: James Eldred, Environmental Analyst, New York State Department of Environmental Conservation, Division of Environmental Permits, 625 Broadway, 4th Floor, Albany, NY 12233-1750. Telephone: 518-402-9158. E-mail: [deppermitting@dec.ny.gov](mailto:deppermitting@dec.ny.gov).

#### Division of Environmental Remediation

6 NYCRR Part 375 (Subparts 375-1 to 375-4, and 375-6), Environmental Remediation Programs. The Department proposes to amend subparts 375-1 to 375-4, and 375-6 to: (1) incorporate legislative mandates which modify the tax incentives offered under the brownfield cleanup program (BCP); (2) incorporate the provision introduced in that legislation that a property is not eligible for the program unless the site "requires remediation," which would be defined in these regulations; (3) incorporate needed changes, clarifications, and modifications to the regulations based on the experience developed during the first decade of implementing the BCP. These changes would increase consistency across remedial programs administered by the Division of Environmental Remediation and provide the Department with the tools necessary to more effectively implement the programs; and (4) incorporate soil cleanup objective (SCO) changes, if any,

resulting from the statutorily required five-year review. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: William Ottaway, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233-7020. Telephone: 518-402-9553. E-mail: [derweb@dec.ny.gov](mailto:derweb@dec.ny.gov). Please include 'Part 375' in the subject line when e-mailing.

6 NYCRR Parts 596, 597, 598, and 599, Chemical Bulk Storage Regulations. In this second phase of rulemaking for revisions to the Chemical Bulk Storage (CBS) regulations, the Department proposes to amend Part 597 to update the list of hazardous substances and clarify the spill reporting requirements. The Department also proposes to repeal Parts 596, 598, and 599 and replace them with a new Part 598 to: (1) achieve equivalency with 40 CFR Part 280 (Underground Storage Tank regulations), which is needed in order for the State to receive State Program Approval from U.S. Environmental Protection Agency (EPA) by incorporating new requirements from the federal regulations that the EPA promulgated in their July 2015 rule making; and (2) incorporate State-initiated changes pertaining to the administration of the CBS program and its consistency with the Petroleum Bulk Storage program, where applicable. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Frank Bondi, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, New York 12233-7020. Telephone: 518-402-9553. E-mail: [derweb@dec.ny.gov](mailto:derweb@dec.ny.gov). Please include 'Parts 597 and 598' in the subject line when e-mailing.

6 NYCRR Part 610, Certification of Onshore Major Facilities [Major Oil Storage Facility (MOSF) Regulations]. The Department proposes to repeal and replace Part 610 to: (1) incorporate appropriate language from the New York State Department of Transportation regulations, 17 NYCRR Parts 30, 31 and 32, that pertains to the administration of the MOSF program, which has been solely handled by the Department since 1985; (2) repeal 17 NYCRR Parts 30, 31 and 32; (3) improve the consistency and clarity of language directing the administration of the MOSF program, which would make explicit in regulation the procedures for licensing MOSFs; and (4) enhance monitoring, maintenance, procedures, and equipment requirements to prevent leaks and spills. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Amiel Lagatic, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, New York 12233-7020. Telephone: 518-402-9553. E-mail: [derweb@dec.ny.gov](mailto:derweb@dec.ny.gov). Please include 'Part 610' in the subject line when e-mailing.

6 NYCRR Part 611, Environmental Priorities and Procedures in Petroleum Cleanup and Removal. The Department proposes to repeal and replace Part 611 to incorporate requirements from Article 12 of the Navigation Law, which prohibits the discharge of petroleum and provides for cleanup and removal of any petroleum discharge. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Kevin Hale, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, New York 12233-7020. Telephone: 518-402-9553. E-mail: [derweb@dec.ny.gov](mailto:derweb@dec.ny.gov). Please include 'Part 611' in the subject line when e-mailing.

6 NYCRR Part 613, Petroleum Bulk Storage Regulations. In this second phase of rulemaking for revisions to the Petroleum Bulk Storage (PBS) regulations, the Department proposes to amend Part 613 to: (1) achieve equivalency with 40 CFR Part 280 (Underground Storage Tank regulations), which is needed in order for the State to receive State Program Approval from EPA by incorporating new requirements from the federal regulations that the EPA promulgated in their July 2015 rule making; (2) clarify language of the existing requirements; and (3) incorporate State-initiated changes pertaining to the administration of the PBS program and its consistency with the CBS program, where applicable. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a



Rural Area Flexibility Analysis. Contact: Amiel Lagatic, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, New York 12233-7020. Telephone: 518-402-9553. E-mail: derweb@dec.ny.gov. Please include 'Part 613' in the subject line when e-mailing.

#### Division of Fish and Wildlife

6 NYCRR Parts 1.11, 1.13, 1.18, 1.19, 1.20, 1.27, 1.30 and 2.1. Pertaining to deer hunting, the issuance and use of deer hunting tags, deer management focus areas, deer management permits, deer management assistance program, and hunting hours. Statutory Authority: Environmental Conservation Law Sections 11-0303, 11-0903, 11-0907. Existing regulations will be updated to implement portions of the newly revised New York State Deer Management Plan including modifications to hunting seasons to better align with deer population objectives in some parts of the state. Regulations would not be proposed and published for public review until the revised management plan is adopted by the Department. Contact: Michael Schiavone, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4754. Telephone: 518-402-8883. E-mail: wildliferegs@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 1, Section 1.40 Pertaining to hunting wild turkey. Statutory Authority: Environmental Conservation Law Sections 11-0303, 11-0903, 11-0907. The existing regulation will be updated to establish a spring wild turkey hunting season in Suffolk County. Contact: Michael Schiavone, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4754. Telephone: 518-402-8883. E-mail: wildliferegs@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Sections 6.2 Pertaining to fisher trapping seasons and bag limits. Statutory authority: Environmental Conservation Law Sections 3-0301, 11-0303, 11-0917, 11-1101, 11-1103, and 11-1105. The existing regulation will be updated to repeal the requirement for trappers to obtain a special permit for fisher and marten. After five years of data collection, this permit is no longer required. A trapping license would still be required to pursue these species as required by law. Contact: Michael Schiavone, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4754. Telephone: 518-402-8883. E-mail: wildliferegs@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 51, Public use of State Wildlife Management Areas. Statutory Authority: ECL 1-0101, 3-0301, 9-0105, and 11-2101. DEC is proposing to amend 6 NYCRR Part 51 to more clearly identify public use compatible with the legal and intended purposes of Wildlife Management Areas for wildlife dependent recreation and wildlife conservation. Where appropriate, revisions will more closely mirror provisions in 6 NYCRR Part 190 Use of state lands. These amendments may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments or a Rural Area Flexibility Analysis. Contact: Marcelo DelPuerto, NYS Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-4754. Telephone: 518-402-8883. E-mail: wildliferegs@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 10, pertaining to Trout Stream Fishing Regulations. The Department will propose a revision of trout stream fishing regulations to reduce the number of regulation variations and align regulations with specific fisheries management objectives. These amendments may require a Regulatory Flexibility Analysis for Small Businesses or a Rural Area Flexibility Analysis. Contact: Gregory Kozlowski, New York State Department of Environmental Conservation, Bureau of Fisheries, 625 Broadway, Albany, NY 12233. Telephone: 518-402-8896. E-mail: gregory.kozlowski@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Parts 10 and 36, pertaining to American Eel Fishing Regulations. The Department will propose a revision in regulations to prohibit the commercial and recreational harvest and possession of American Eel in all inland waters except for the Hudson River below the Federal Dam in Troy. These amendments may require a Regulatory Flexibility Analysis for Small Businesses or a Rural Area Flexibility Analysis. Contact: Gregory Kozlowski, New York State Department of Environmental Conservation, Bureau of Fisheries, 625 Broadway, Albany, NY 12233. Telephone: 518-402-8896. E-mail: gregory.kozlowski@dec.ny.gov. Please include the Part number when emailing.

ment of Environmental Conservation, Bureau of Fisheries, 625 Broadway, Albany, NY 12233. Telephone: 518-402-8896. E-mail: gregory.kozlowski@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 10, pertaining to Skaneateles Lake Fishing Regulations. The Department will propose a revision of fishing regulations to increase harvest for illegally introduced walleye. This amendment may require a Regulatory Flexibility Analysis for Small Businesses or a Rural Area Flexibility Analysis. Contact: Gregory Kozlowski, New York State Department of Environmental Conservation, Bureau of Fisheries, 625 Broadway, Albany, NY 12233. Telephone: 518-402-8896. E-mail: gregory.kozlowski@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Parts 10 and 19, Various Fishing Regulations. The Department will propose regulatory language clean-up for the purposes of clarification or resolution of language conflicts. In addition, the Department will propose to make adjustments to lake and stream fishing regulations, clarify where ice fishing is permitted, align Greenwood Lake muskellunge/tiger muskellunge regulations with New Jersey, correct an inadvertent change to the Honeoye Lake walleye regulations by reverting the minimum size back to 18 inches, align the Lower Niagara rainbow trout/steelhead creel limit with the existing 2 fish limit on Lake Ontario, update baitfish prohibited waters, and remove Keuka Lake and Otsego Lake from the list of waters where the use of landlocked alewife for bait is permitted. These amendments may require a Regulatory Flexibility Analysis for Small Businesses or a Rural Area Flexibility Analysis. Contact: Gregory Kozlowski, New York State Department of Environmental Conservation, Bureau of Fisheries, 625 Broadway, Albany, NY 12233. Telephone: 518-402-8896. E-mail: gregory.kozlowski@dec.ny.gov

6 NYCRR Part 10, Panfish Fishing Regulations. The Department will propose more restrictive sunfish and crappie harvest limits on select lakes as part of a Big Panfish Initiative, reduce the statewide daily harvest limit on sunfish, and increase the statewide crappie minimum length. These amendments may require a Regulatory Flexibility Analysis for Small Businesses or a Rural Area Flexibility Analysis. Contact: Gregory Kozlowski, New York State Department of Environmental Conservation, Bureau of Fisheries, 625 Broadway, Albany, NY 12233. Telephone: 518-402-8896. E-mail: gregory.kozlowski@dec.ny.gov

6 NYCRR Part 177, Sporting License Issuance and Use. Amend current regulations to update proof of qualifications for certain licenses to be consistent with updated procedures and potential changes necessary to issue sporting licenses as part of a statewide, shared services electronic licensing system that is currently under development. Also, amend current regulations concerning the description of what constitutes a license issued by DEC to allow for electronic sporting licenses to be carried and presented via electronic device(s). This amendment may require a Regulatory Flexibility Analysis for Small Businesses or a Rural Area Flexibility Analysis. Contact: Mary Bailey, New York State Department of Environmental Conservation, Division of Fish and Wildlife, 625 Broadway, Albany, NY 12233-4750. Telephone: 518-402-8869. E-mail: mary.bailey@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 182, Section 182.5, Pertaining to endangered species, threatened species, and species of special concern. The existing regulation will be revised to update the list of endangered, threatened and special concern species based on the best available data. The current list has not been vetted for necessary changes since 1999, with only mandatory changes based on Federal listing decision occurring over the last twenty years. This rule making will require a Job Impact Statement, a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Daniel Rosenblatt, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4754. Telephone: 518-402-8884. E-mail: wildliferegs@dec.ny.gov. Please include the Part number when emailing.

#### Division of Forest Protection

6 NYCRR Part 197, Part 197 will be amended to clarify the License to Guide application criteria and review procedure for new applica-

tions and renewals. The amendment will also increase the guide license fee for out of state residents to the statutory maximum of two-hundred dollars per license. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments. Contact: Colleen Kayser, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-2560. Telephone: 518-402-8838. Email: colleen.kayser@dec.ny.gov. Please include the Part number when emailing.

#### Office of General Counsel

6 NYCRR Part 175, Special Licenses and Permits-Definitions and Uniform Procedures. Part 175 will be updated to reflect the re-establishment of the Division of Marine Resources and to include recently developed licenses and permits. It will be revised to add provisions relating to the suspension of processing and review of license and permit applications, furnishing of financial security for certain licenses and permits, and suspension of marine licenses and permits, and to clarify processes for the issuance, renewal, revocation and transfer of special and marine licenses and permits. This rulemaking will not require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Anne Haas, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-1500. Telephone: 518-402-9530. Email: anne.haas@dec.ny.gov. Please include the Part number when emailing.

#### Office of Hearings and Mediation Services

6 NYCRR Part 624, Permit Hearing Procedures. The Department proposes to amend procedures governing issues conferences and interim appeals to the Commissioner from issues rulings by the Administrative Law Judges, to clarify the procedures governing motion practice, to establish procedures governing trade secrets and other confidential information in adjudicatory hearings, to revise certain definitions and to make various typographical, technical and related corrections. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses, and a Rural Regulatory Flexibility Analysis. Contact: Michael S. Caruso, New York State Department of Environmental Conservation, Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, New York 12233-1500. E-mail: michael.caruso@dec.ny.gov. Please include the Part number when e-mailing.

#### Division of Lands and Forests

6 NYCRR Part 190, Use of State Lands, Hemlock-Canadice State Forest (Livingston-Ontario State Reforestation Area No.1). Amend existing section 190.26 by applying further restrictions on public use to protect the public water supply since Hemlock and Canadice lakes are a direct source of public water for the city of Rochester and other communities. A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis will be prepared. Contact: Robert Messenger, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4255, Telephone: (518) 402-9428, E-mail: robert.messenger@dec.ny.gov

6 NYCRR Part 190, Use of State Lands, Rush Oak Openings State Forest. Amend Part 190 to include a new section, Rush Oak Openings State Forest. These regulations will protect the state forest by prohibiting certain activities. A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis will be prepared. Contact: Robert Messenger, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4255, Telephone: (518) 402-9428, E-mail: robert.messenger@dec.ny.gov

6 NYCRR Part 190, Use of State Lands, Zoar Valley Multiple Use Area Including Zoar Valley Unique Area. Amend existing section 190.25 to protect public safety and natural resources on this Unique Area. A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis will be prepared. Contact: Robert Messenger, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4255, Telephone: (518) 402-9428, E-mail: robert.messenger@dec.ny.gov

6 NYCRR Part 190, Use of State Lands. Amend Part 190 to include a new section, St. Regis Canoe Area. These regulations will protect the natural resources in the St. Regis Canoe Area from overuse by applying restrictions to group size, camping, campfires and other

activities. A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis will be prepared. Contact: Peter J. Frank, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4254, Telephone: (518) 473-9518, E-mail: peter.frank@dec.ny.gov

6 NYCRR Part 190, Use of State Lands, Amend Part 190 to include a new section, Forest Preserve Health and Safety Land Account and Utility Lines/Bicycle Paths. These regulations, authorized by amendments to Article XIV of the New York State Constitution, establish a "land account" for forest preserve land that can be used for certain types of public health and safety projects and for burial of utility lines in road corridors crossing forest preserve lands as well as allowing bicycle trails in these corridors. A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis will be prepared. Contact: Peter Frank, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4254, Telephone: (518) 473-9518 E-mail: peter.frank@dec.ny.gov

6 NYCRR Part 190, Use of State Lands. Amend section 190.35, Peekamoose Valley Riparian Corridor to expand the permit requirement to protect public safety and natural resources. A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis will be prepared. Contact: Peter Frank, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4254, Telephone: (518) 473-9518, E-mail: peter.frank@dec.ny.gov

6 NYCRR Part 190, Use of State Lands. Amend Part 190 to include a new section, Camp Pine, Sundown Wild Forest to protect public safety and natural resources. A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis will be prepared. Contact: Peter Frank, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4254, Telephone: (518) 473-9518, E-mail: peter.frank@dec.ny.gov

6 NYCRR Part 193, Trees and Plants. Amend section 193.3, Protected Native Plants by updating the lists of endangered, threatened, rare, and exploitably vulnerable plants to reflect changes in population status that have occurred since the last update in 2012. Scientific names will also be updated to reflect current taxonomic nomenclature. A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis will be prepared. Contact: Jason Denham, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4254, Telephone: (518) 402-9436, E-mail: jason.denham@dec.ny.gov

6 NYCRR Part 193, Trees and Plants. Amend sections 193.4, Definitions, 193.5, Collection, Sale and Conservation of American Ginseng in New York, 193.6, Certification of Ginseng, and 193.7 Ginseng Dealers. The purpose of the proposed regulation is to allow for the harvest and sale of "wild simulated" ginseng. In addition, consider adding a license requirement for legal ginseng harvest and changing the minimum plant age for the legal harvest of wild ginseng. A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis may be prepared. Contact: Jason Denham, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4254, Telephone: (518) 402-9436, E-mail: jason.denham@dec.ny.gov

6 NYCRR Part 195, Permits for the Erection and Maintenance of Signs, Advertising Structures and Devices in the Catskill Park. These regulations will allow a modest increase in the size of signs and the distance of signs from businesses. A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis will be prepared. Contact: Peter Innes, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4250, Telephone: (518) 402-9405, E-mail: peter.innes@dec.ny.gov

6 NYCRR Part 196, Operation of Motorized Vehicles, Vessels, Aircraft and Motorized Equipment in the Forest Preserve. Amend section 196.7, Operation of Bicycles in the Adirondack and Catskill Forest Preserve. These regulations will update this section, including the existing list of forest preserve areas where bicycles are prohibited. A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis will be prepared. Contact: Peter Frank, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4254, Telephone: (518) 473-9518, E-mail: peter.frank@dec.ny.gov



6 NYCRR Part 196, Operation of Motorized Vehicles, Vessels, Aircraft and Motorized Equipment in the Forest Preserve. Amend section 196.8, Operation of Motorized Equipment in Wilderness, Primitive, Primitive Bicycle Corridor and Canoe Areas within the Adirondack and Catskill Forest Preserve. These regulations will update this section, including establishing a list where motorized equipment is prohibited on existing forest preserve units and newly classified forest preserve units. A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis will be prepared. Contact: Peter Frank, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4254, Telephone: (518) 473-9518, E-mail: peter.frank@dec.ny.gov

6 NYCRR Part 199, Taxation of Forest Land. Amend the existing regulations to update them and provide effective administration of the program by lessening the administrative burden on participants and provide clarity for addressing issues and situations that arise due to changing circumstances associated with private forest land ownership. A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis will be prepared. Contact: Robert Messenger, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4255, Telephone: (518) 402-9428, E-mail: robert.messenger@dec.ny.gov

6 NYCRR Part 575, Prohibited and Regulated Invasive Species. Amend sections 575.3, Prohibited Invasive Species and 575.4, Regulated Invasive Species to update these lists and establish control and management of listed prohibited or regulated invasive species. The purpose of this Part is to establish procedures to identify and classify invasive species and to establish a permit system to restrict the sale, purchase, possession, propagation, introduction, importation, and transport of invasive species in New York, as part of the Department of Environmental Conservation's statewide invasive species management program, as required by ECL sections 9-1709 and 71-0703. A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis will be prepared. Contact: Justin Perry, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4254, Telephone: (518) 402-9436, E-mail: justin.perry@dec.ny.gov

6 NYCRR Part 592, Procedure for Modification or Extinguishment of a Conservation Easement held by the NYS Department of Environmental Conservation. Amend section 592.3 to clarify language regarding a net conservation benefit to the state. A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis will be prepared. Contact: Jim Sessions, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4254, Telephone: (518) 473-9518, E-mail: jim.sessions@dec.ny.gov

#### Division of Marine Resources

6 NYCRR Part 10, Sportfishing Regulations. The Department is proposing amendments that pertain to the management of diadromous fish, including striped bass in the Hudson River and tributaries north of the George Washington Bridge, to maintain compliance with the interstate fishery management plan developed by the Atlantic States Marine Fisheries Commission. Proposed amendments could include changes to the season, minimum size limit, possession limit and the manner of take. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: John Maniscalco, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0430. E-mail: john.maniscalco@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 11, More than One Species. The Department is proposing amendments that pertain to the management of diadromous fishes, including American eel, for taking, possessing, sale, or trafficking in the Harlem or East Rivers and the Hudson River. The amendments are needed for New York State to remain in compliance with fishery management plans developed by the Atlantic States Marine Fisheries Commission or as directed in the Federal Sustainable Fisheries Act for such species. These amendments will also comply with the requirements of Environmental Conservation Law regarding the

management of anadromous species. The purpose of these regulations is to protect and to maintain the health of these fish stocks. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: John Maniscalco, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0430. E-mail: john.maniscalco@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 18, Taking Bait. The Department is proposing amendments that pertain to the management of diadromous fishes to take as bait for sportfishing through the use of fishing devices. The amendments are needed for New York State to remain in compliance with fishery management plans developed by the Atlantic States Marine Fisheries Commission or as directed in the Federal Sustainable Fisheries Act for such species. These amendments will also comply with the requirements of Environmental Conservation Law regarding the management of anadromous species. The purpose of these regulations is to protect and to maintain the health of these fish stocks. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: John Maniscalco, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0430. E-mail: john.maniscalco@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 19, Use of Bait, Fish for Bait, and Bait Fish. The Department is proposing an amendment to define in-line circle hooks. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: John Maniscalco, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0430. E-mail: john.maniscalco@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 35, Licenses. The Department proposes to establish new reporting requirements for certain inland commercial fishery license holders, consistent with those in Part 40 for the same regulated species. The Department also proposes to reduce the number of types of licenses issued and to increase the fees charged for certain licenses. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: John Maniscalco, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0430. E-mail: john.maniscalco@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 36, Gear and Operation of Gear. The Department is proposing amendments that pertain to the management of diadromous fishes in the Hudson and Delaware Rivers and are needed to maintain compliance with fishery management plans developed by the Atlantic States Marine Fisheries Commission (ASMFC) or as directed in the Federal Sustainable Fisheries Act for such species. The amendments will also comply with the requirements of Environmental Conservation Law regarding the management of anadromous species. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: John Maniscalco, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Meade Road, Suite 1, E. Setauket, New York 11733. Telephone: 631-444-0430. E-mail: john.maniscalco@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 40, Marine Fish. The Department proposes to amend regulations pertaining to the management of marine and diadromous fishes, including striped bass, to maintain compliance with fishery management plans developed by the Atlantic States Marine Fisheries Commission (ASMFC), or with the requirements of Environmental Conservation Law, or pursuant to the Federal Sustainable Fisheries Act for such species. Proposed amendments will also provide compliance with National Marine Fisheries Service requirements and other federal laws. The Department proposes to amend the regulations to



define what methods are allowed for recreational anglers to take fish, including requirements related to the use of circle hooks. The Department proposes to amend reporting and record keeping requirements for State licensed harvesters; and to create a definition for proof of residency and establish requirements for providing such proof of residency when obtaining marine license and permits. The Department proposes to amend reporting and record keeping requirements for State licensed harvesters who also hold federal harvesting licenses. The amendment would require federal license holders to advise the Department if they are required to report to any federal agencies. In addition, the amendment would clarify reporting requirements specific to federal Highly Migratory Species (HMS) permits. The Department proposes to amend reporting requirements for Marine and Coastal District Party and Charter Boat License holders to require weekly reporting. The Department proposes to amend the striped bass and summer flounder commercial fishing special regulations to replace qualifications for permits and make changes to striped bass commercial fishing permit reissuance and striped bass commercial permit tag provisions. New regulations would be proposed to make changes in the summer flounder commercial fishing special regulations to add language for re-qualification similar to that in the striped bass commercial fishing special regulations. The Department proposes to adopt regulations to establish a commercial eel permit with reporting requirements statewide, and to extend coverage by the general provisions of this part to include Rockland and Putnam Counties and ensure that commercial possession and sale is covered statewide. The Department proposes to amend commercial fishing regulations for American eel to establish quota-based fishing limits and closures. The Department proposes to adopt regulations which will require the use of bait bags when fishing with eel pots. The Department proposes to change the open season for striped bass commercial fishing. The Department proposes to adopt changes to the shipping, labeling and packing requirements to require harvester's fishing vessel trip report numbers on labels for quota managed species and adopt regulations to clarify provision for records retention by food fish shippers and dealers. The Department proposes amendments to establish seasonal area gear closures to decrease bycatch of Atlantic sturgeon. The Department proposes to adopt gear and manner of take restrictions for the shore-based shark fishery to discourage fishing on prohibited shark species. The Department also proposes to adopt handling requirements for recreational shark anglers to maximize the chances of survival of sharks being released. The Department proposes additional regulations that ensure New York State commercial and recreational fishermen remain in compliance with NOAA shark fishery requirements. The Department proposes amendments to establish rules pertaining to commercial tautog tag issuance, allocation, and accountability. The Department also proposes regulations governing the application of tags, the sale and possession of tagged and untagged fish, and reporting/record keeping requirements for harvesters and dealers as it pertains to tagged tautog. The Department proposes rules to implement gillnet gear restrictions and marking requirements in the state ocean waters off the south shore of Long Island to comply with the federal Marine Mammal Protection Act. The Department proposes to adopt regulations that implement a northern puffer fish minimum size limit for recreational fisheries. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: John Maniscalco, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0430. E-mail: john.maniscalco@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 41, Sanitary Condition of Shellfish Lands. As necessary, the Department will propose to amend regulations that specify the classification (certified or uncertified) of shellfish lands. These amendments are necessary to protect public health by designating lands that do not meet bacteriological water quality criteria as uncertified or closed to shellfish harvesting. Shellfish lands that meet the water quality criteria are designated as certified (open) for the taking of shellfish. The Department also proposes that shellfish lands that have not been subject to a sanitary survey conducted within the previous

ten (10) years be designated as uncertified. Shellfish are defined in law as oysters, scallops, and all kinds of clams and mussels. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: Matt Richards, New York State Department of Environmental Conservation, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0491. E-mail: matt.richards@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 42, Sanitary Control Over Shellfish. The Department proposes to amend regulations pertaining to the sanitary, record keeping, and reporting requirements and to require *Vibrio* control plans and introduce educational requirements, as necessary, to protect public health and allow for the modification of any conditions placed on permit activities after the permit has been issued for shellfish harvesters and shippers needed to comply with the guidelines of the National Shellfish Sanitation Program (NSSP), the federal regulations regarding interstate shipment of shellfish, and the Environmental Conservation Law. The proposed regulations will modify the descriptions of allowable activities under each category of shellfish shipper permits and the harvester permit consistent with the NSSP and the Environmental Conservation Law and amend and clarify descriptions of shellfish harvest areas to clearly delineate geographical sites where shellfish are harvested. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: Debra Barnes, New York State Department of Environmental Conservation, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0477. E-mail: debra.barnes@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 43, Surfclam/Ocean Quahog Fishery Management. The Department proposes to amend regulations pertaining to the management of surfclams and ocean quahogs that are consistent with the provisions of fishery management plans adopted by the Department and allow for the orderly implementation of any changes to the Environmental Conservation Law for the surfclam fishery. All amendments may describe changes to permit requirements and eligibility, harvest limits, gear restrictions, record keeping, and reporting requirements. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: Jennifer O'Dwyer, New York State Department of Environmental Conservation, 205 N. Belle Mead Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0489. E-mail: jennifer.odwyer@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 44, Lobsters and Crabs. The Department proposes to amend regulations pertaining to the management of lobsters, decapod crabs, and horseshoe crabs to maintain the health of such species and to prevent the introduction of exotic species. These proposed regulations would comply with fishery management plans developed by the Atlantic State Marine Fisheries Commission (ASMFC) for these species and with requirements of the Environmental Conservation Law. The proposed regulations would include general provisions consistent with those found in Part 40. The proposed amendments would establish rules on crab dredging including possible open crab dredge seasons and areas, establish crab pot limits, and revise blue crab size limits. The Department proposes to amend reporting and record keeping requirements for State licensed harvesters to be consistent with the requirements in Part 40. The Department proposes to adopt regulations to implement the new ASMFC Interstate Fishery Management Plan for Jonah Crab which would include a special permit, bycatch limit, gear and/or effort controls and other management measures based on details of the plan. The Department proposes to clarify current language and remove unnecessary regulations. Horseshoe crab regulations will be proposed to allow more control over the harvest and storage of horseshoe crabs. Rules will be developed to better manage the horseshoe crab biomedical harvest and biomedical users. Rules would also be developed to prohibit the importation, possession and use of Asian horseshoe crabs. ASMFC will be developing an Addendum to the lobster management plan to scale the size of the Southern New England lobster fishery to the size of the resource and

to respond to the continued depletion of the stock. The Department would propose lobster regulations based on the details of the Addendum. The Department would propose rules to prohibit the liberation of non-local crustaceans into New York's marine district. Rules would be developed to modify lobster trap tag allocations in order to implement trap transferability program. The Department proposes to develop rules to implement lobster gear restrictions and marking requirements to comply with the federal Marine Mammal Protection Act. The Department will also develop rules to establish a minimum age for the non-commercial lobster license. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: Kim McKown, New York State Department of Environmental Conservation, Division of Marine Resources, Finfish and Crustaceans Section, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0454. E-mail: kim.mckown@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 45, Transplanting of Shellfish. The Department proposes to amend regulations pertaining to the transplanting of shellfish that are necessary for the protection of the public health, compliance with federal guidelines, and minimum requirements from the National Shellfish Sanitation Program (NSSP) Model Ordinance (MO). The proposed regulations would amend requirements for permits, transplanting of shellfish, periods of transplanting, relay area certification, and establish requirements for recordkeeping and reporting. The proposed regulations would also establish requirements for water quality, shellfish testing, and bacterial reduction (cleansing) studies. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Wade Carden, New York State Department of Environmental Conservation, 205 N. Belle Mead Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0481. E-mail: wade.carden@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 47, Certification of Shellfish Lands. The Department proposes technical amendments that would remove the word "uncertified" where it appears in two subparagraphs that specify the water quality criteria overlying certified shellfish lands. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Matt Richards, New York State Department of Environmental Conservation, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0491. E-mail: matt.richards@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 48, Marine Hatcheries, On-Bottom and Off-Bottom Culture of Marine Plant and Animal Life. The Department proposes to amend regulations pertaining to the sale of cultured food fish and other cultured food products for consumption or resale. The proposed regulations would amend requirements for marking and identification of cultivation products in commercial markets, requirements for permits, and record keeping and reporting requirements. The Department proposes to amend regulations pertaining to application standards and requirements for issuance of marine hatchery and on- and/or off-bottom culture permits. This amendment is necessary to ensure that these standards and requirements are consistent with guidelines of the National Shellfish Sanitation Program (NSSP) Model Ordinance (MO), including the applicant's submission of a written operational plan that considers all activities which may pose a significant public health concern, including, but not limited to, shellfish seed production in waters classified as uncertified, aquaculture structures that attract birds or mammals, and aquaculture husbandry practices. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Wade Carden, New York State Department of Environmental Conservation, 205 N. Belle Mead Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0481. E-mail: wade.carden@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 49, Shellfish Management. The Department proposes to adopt regulations for the management of hard clams, soft or

steamer clams and razor clams. The management measures include provisions for size limits, catch and possession limits, open and closed seasons, closed areas, restrictions on the manner of taking and landing, requirements for permits and eligibility, record keeping and identification requirements, requirements on the amount and type of fishing effort and gear, and requirements relating to transportation, possession and sale. The Department proposes to amend regulations pertaining to the possession of oysters of less than legal size which is needed to ensure enforceability and compliance with the minimum size requirements for harvest of wild (natural) oysters in the marine district. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Debra Barnes, New York State Department of Environmental Conservation, 205 N. Belle Mead Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0477. E-mail: debra.barnes@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 50, Miscellaneous Marine Species. The Department proposes to adopt new regulations for the protection and management of various other marine species. The immediate need is for the adoption of regulations for the protection and management of whelks (also known as conch, *Busyon* and *Busycotypus* spp). These regulations would include size limits, specifications for marking and placement of whelk fishing gear, gear size, baiting and tending rules, bycatch possession rules, trap limits and other regulations necessary to manage the whelk fishery. The Department proposes to amend reporting and record keeping requirements for State license holders to be consistent with the requirements in Part 40. The Department proposes to adopt regulations which would require the use of bait bags when fishing with whelk traps. The Department also proposes to adopt regulations detailing marine mammal and sea turtle viewing restrictions including minimum distance, speed restrictions and prohibition on feeding. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: Kim McKown, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0454. E-mail: kim.mckown@dec.ny.gov. Please include the Part number when emailing.

#### Division of Materials Management

6 NYCRR Part 321, Pesticides in Grape Vineyards, Chautauqua County, Northern Townships, Part 322 Pesticides in Grape Vineyards, Niagara County, Part 323 Pesticides In Grape Vineyards, Chautauqua County, Southern Townships, Part 324 Pesticides In Grape Vineyards, Erie County, and Part 325 Application of Pesticides will be repealed and replaced with new Parts 321-325. This rulemaking will include comprehensive reorganization and revisions to the current rule to update the current pesticide use regulations, including the use of pesticides classified by the USEPA as exempt from the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act. These pesticides are commonly known as 25(b) or minimum risk pesticides. This rulemaking will also incorporate federal certification and training regulations contained in 40 CFR Part 171 and the provisions currently in Part 326 Registration and Classification of Pesticides related to the sale of restricted use pesticides. In addition, Part 326 will be revised to address the registration of minimum risk pesticides. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Anthony Lamanno, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-7254. Telephone: 518-402-8727. E-mail: Pestregs@dec.ny.gov. Please include the Part number when e-mailing.

6 NYCRR Part 326 Registration and Classification of Pesticides will be amended to add chlorpyrifos to the list of pesticides that may not be distributed, sold, purchased, possessed or used for any purpose in New York State. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Anthony Lamanno, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-7254. Telephone: 518-402-8727. E-mail: Pestregs@dec.ny.gov. Please include the Part number when e-mailing.

6 NYCRR Part 327, Use of Chemicals for the Control or Elimination of Aquatic Vegetation. Part 327 will be amended to incorporate relevant provisions of Part 328 (Use of Chemicals for the Control or Elimination of Undesirable Fish) and Part 329 (Use of Chemicals for the Control or Elimination of Aquatic Insects) and to reflect the current statutory requirements of Section 15-0313 of the Environmental Conservation Law. 6 NYCRR Part 328 and 6 NYCRR Part 329 will be repealed. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Mark Solan, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-7254. Telephone: 518-402-8727. E-mail: [aqpestregs@dec.ny.gov](mailto:aqpestregs@dec.ny.gov). Please include the Part number when e-mailing.

6 NYCRR Part 350, Food Donation and Food Scraps Recycling. The Department is proposing a new Part 350 as required by Title 22 of Article 27 of the Environmental Conservation Law. The proposed regulations require large food scraps generators to donate wholesome food. Increasing food donation from large food generators will not only help those in need, it will be a financial advantage for the food establishment (grocery store, etc.). Cost savings will be realized through tax deductions and through a reduction in the cost of waste disposal since the food will no longer be disposed of. The proposed regulations also require large food scraps generators to send their food scraps to an organics recycler if one exists within 25 miles of the generator, and the recycler has capacity. However, the proposed regulations, as well as the statute, have a waiver provision for the designated food scraps generators. Any generator can petition DEC for a waiver from compliance with the requirements of the regulations for several reasons, including that the cost of recycling organic waste is not reasonably competitive with the cost of disposing of the waste in a landfill. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Sally Rowland, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-7253. Telephone: 518-402-8678. E-mail: [FoodScrapsLaw@dec.ny.gov](mailto:FoodScrapsLaw@dec.ny.gov). Please include the Part number when e-mailing.

A new Part 352 will be added that will include subparts related to the regulation of chemicals. The following subparts are proposed.

6 NYCRR Subpart 352-1 1,4-Dioxane Limits for Household Cleansing, Personal Care, and Cosmetic Products. A new law establishes limits on the amount of 1,4-dioxane that can be present in household cleansing (Article 35), personal care and cosmetic (Article 37) products sold in New York State and establishes a penalty for noncompliance with the requirements added to Article 37 (Article 71). The limitations take effect on January 1, 2023 and January 1, 2024, but manufacturers may apply for a one-year waiver and one-year extension. The amendments to Articles 35 and 37 authorize the Department to promulgate any regulations deemed necessary to implement such provisions and the addition of Article 71 extends the penalty to violations of any rules and regulations promulgated by the Department. The proposed rulemaking will add a new 6 NYCRR Part 352 subpart 352-1 Product Ingredient Disclosure and Limits which will contain the regulations that implement the 1,4-dioxane limits for household cleansing, personal care, and cosmetic products, as well as any other future similar laws around ingredient disclosure or restrictions. This rulemaking will include definitions, details of the waiver process, details of the process to review and amend the stated thresholds for 1,4-dioxane, and methods for verifying if a product is in compliance. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Emily Dominiak, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-7253. Telephone: 518-402-8706. E-mail: [1-4D.HCPCproducts@dec.ny.gov](mailto:1-4D.HCPCproducts@dec.ny.gov). Please include 'Subpart 352-1' in the subject line when e-mailing.

6 NYCRR Subpart 352-2 Toxic Chemicals in Children's Products. On April 1, 2020, the Legislature adopted chapter amendments to a new law, codified at Title 9 of Article 37 of the ECL, regulating toxic chemicals in children's products. The law requires manufacturers of

children's products to report the presence of any chemical of concern (COC), as identified by the DEC, and high priority chemical (HPC), as identified in the law or by DEC, to the DEC by March 1, 2023. The law includes various DEC responsibilities, including a requirement to promulgate regulations that contain a list of chemicals of concern by March 1, 2022. DEC must consult with the Department of Health in determining which chemicals should initially be identified as COCs and then periodically thereafter to determine if chemicals should be added or removed from the list of COCs or HPCs. This new rulemaking will add a new proposed Subpart 352-2 Toxic Chemicals in Children's Products and will include: definitions, a list of COCs, a list of HPCs, the method and frequency of reporting, information that must be included in manufacturer reports, and fees associated with submitting a report or waiver to the DEC. The proposed regulation will also require information that must be included in the notice that manufacturers provide to those who sell or distribute their products within the State about the presence of HPCs in a product, information that must be included in the statement of compliance that manufacturers must provide to DEC upon request, and the frequency and process for periodically reviewing the COC and HPC lists with DOH. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Emily Dominiak, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-7253. Telephone: 518-402-8706. E-mail: [TCCProgram@dec.ny.gov](mailto:TCCProgram@dec.ny.gov). Please include 'Subpart 352-2' in the subject line when e-mailing.

6 NYCRR Part 353 Expanded Polystyrene Foam Container and Polystyrene Loose Fill Packaging Ban. The 2020-2021 State Budget included a new bill which amended Article 27 of the ECL by adding a new Title 30, "Expanded Polystyrene Foam Container and Polystyrene Loose Fill Packaging Ban." While the law took effect immediately, the ban in Title 30 of Article 27 of the ECL takes effect on January 1, 2022, and will prohibit covered food service providers and stores from selling, offering for sale, or distributing disposable food service containers that contain expanded polystyrene (EPS) foam in New York State, unless the foam containers fall under exemptions specified in the law. The law also prohibits manufacturers or stores from selling, offering for sale, or distributing polystyrene loose fill packaging, commonly known as "packing peanuts," in New York State. Section 27-3003 authorizes the Department to promulgate regulations to implement the provisions of the law. The Part 353 regulations will include criteria related to what constitutes "comparable costs" pursuant to subdivision two of section 27-3005, as well as details of the hardship waiver process that this subdivision allows certain facilities to request if specific conditions are met. The rulemaking will also include applicable definitions and other criteria needed to clarify or implement the provisions of the law. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Amy Bloomfield, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-7253. Telephone (518) 402-8706. E-mail: [foamban@dec.ny.gov](mailto:foamban@dec.ny.gov). Please include 'Part 353' in the subject line when e-mailing.

6 NYCRR Part 360, Solid Waste Series Revisions. The rulemaking will amend the Part 360 Solid Waste Management Facilities Series Regulations that went into effect on November 4, 2017. The rulemaking will include adjustments to Parts 360, 361, 362, 363, 364, 365, 366 and 369 and include clarifications regarding construction and demolition (C&D) debris processing facilities and also beneficial use of C&D debris. The rulemaking will also simplify the requirements for waste transport of C&D, adjust pre-determined beneficial uses for the use of brine for road spreading and extend the brine beneficial use transition requirements, and add new requirements for the management of waste tires used at farms to secure tarpaulins, which will reduce retention of water while avoiding unnecessary costs to farmers. The revisions will allow the continued operation of facilities that were registered landfills prior to November 4, 2017 for the receipt of tree debris, concrete, asphalt, brick, and uncontaminated soil and rock resulting from land clearing, utility line maintenance and season or storm-related cleanups until entitled capacity is achieved. The rulemaking will implement requirements of state legislation to ensure



protection of groundwater at composting facilities and mulch processing facilities located in Nassau and Suffolk Counties, and restrict the types of facilities allowed to operate inside of a mine within these two counties. Adjustments will be made to improve and simplify the process to receive municipal waste reduction and recycling grants for recycling projects and programs statewide. Additionally, the rulemaking will include minor amendments to correct errors made in cross-references contained in Subpart 374-2 Standards for the Management of Used Oil, as well as adjustments to language contained in section 372.3 Standards Applicable to Transporters related to 10-day temporary storage to be consistent with Part 360 and Part 364 requirements. The rulemaking includes amendments to Part 371 to address a provision in which certain solid wastes are not hazardous wastes. The proposed revision narrows the universe of types of wastes generated from drilling operations at crude oil wells, natural gas wells or geothermal energy wells that is not considered hazardous waste to rock chips, fragments and/or fines that are uncontaminated by drilling and completion fluids, including any additives. The current provision in 371 excludes all drilling fluids, produced waters, and other wastes associated with the exploration, development, production of crude oil, natural gas or geothermal energy from being hazardous wastes. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Melissa Treers, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-7260. Telephone: 518-402-8678. Email: SolidWasteRegulations@dec.ny.gov. Please include the Part number when e-mailing.

6 NYCRR Part 367, Returnable Beverage Containers. This rulemaking will incorporate revisions to the statute that specifically changed and, in some cases, change the Part 367 regulations that were promulgated in 1983; reflect changes in the way the industry and the regulated community now comply with these regulations; and include changes that will lead to improved compliance and enforcement. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Jennifer Kruman, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-7253. Telephone: 518-402-8706. E-mail: nybottle@dec.ny.gov. Please include the Part number when e-mailing.

6 NYCRR Part 368, Product Stewardship and Product Labeling. This rulemaking will repeal and replace the existing Recycling Emblem regulations in 6 NYCRR Part 368 to be consistent with national labeling guidelines for recycling terms. It will also include regulations for mercury-added consumer products labeling, and product stewardship requirements for the E-Waste take back program resulting from legislation adopted in 2010 for E-Waste management. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Peter Pettit, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-7253. Telephone: 518-402-8706. E-mail: ewaste@dec.ny.gov. Please include the Part number when e-mailing.

6 NYCRR Parts 370, 371, 372, 373, 374 and 376, Hazardous Waste Management Regulations ('FedReg6'). This rulemaking will incorporate, as appropriate, federal rules that were adopted between July 31, 2013 and the present, which include regulations governing recycling of hazardous materials; electronic manifest requirements; reorganization and updates to regulations pertaining to hazardous waste generators; management of hazardous waste pharmaceuticals; and may include regulations addressing the management of vehicle air bags and aerosol cans, and updates to ignitability testing methods. This rulemaking may also include state-initiated changes related to classification of permit modifications, secondary containment requirements for liquid hazardous waste, used oil management, and management of paint waste and waste solar panels. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Michelle Ching, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-7020. Telephone: 518-402-8651. E-mail: hwregs@dec.ny.gov. Please include 'FedReg6' in the subject line when e-mailing.

6 NYCRR Parts 370, 371 and 374 Addition of Aerosol Cans and Paint to the Universal Waste Rule. The proposed rulemaking amends 6 NYCRR Subpart 374-3: Universal Waste Rule and related sections of 6 NYCRR Parts 370, 371, 373 and 376 of the hazardous management regulations. Paint and aerosol cans are proposed to be added to the state universal waste rule and management standards specific to paint waste and to aerosol cans are proposed including labeling, accumulation time limits, personnel training, transportation requirements, and specific standards for accumulation and consolidation at collection sites. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Alison Egbon, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-7020. Telephone: 518-402-8651. E-mail: hwregs@dec.ny.gov. Please include 'Subpart 374-3 Aerosol Cans and Paint Universal Waste Rule' in the subject line when e-mailing.

6 NYCRR Part 381, Transporters of Low-Level Radioactive Waste. This rulemaking will adopt applicable requirements of the federal Nuclear Regulatory Commission (NRC) regulations. These changes are needed to conform with (NRC) regulation revisions from 2012 through 2017. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Timothy Rice, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-7255. Telephone: 518-402-8651. E-mail: Regs.Radiation@dec.ny.gov. Please include 'Part 381' in the subject line when e-mailing.

6 NYCRR Part 384, Cleanup Criteria for Remediation of Sites Contaminated with Radioactive Material. This rule is being developed to adopt applicable sections of the federal Nuclear Regulatory Commission's (NRC) License Termination Rule (LTR), which establishes cleanup criteria for radiologically contaminated sites, and the Timeliness of Decommissioning Rule, which outlines necessary steps for the planning and implementing of site cleanups. Program staff are coordinating adoption of these rules with the New York State Department of Health and the New York City Department of Health and Mental Hygiene to ensure compatibility, as they must also adopt applicable sections of these federal rules. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Timothy Rice, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-7255. Telephone: 518-402-8651. E-mail: Regs.Radiation@dec.ny.gov. Please include 'Part 384' in the subject line when e-mailing.

6 NYCRR Part 483, Hazardous Waste Program Fees. This rulemaking will amend Part 483 to incorporate statutory changes made to the Hazardous Waste Program Fees in Environmental Conservation Law section 72-0402. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Tom Killeen, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-7256. Telephone: 518-402-8651. E-mail: derweb@dec.ny.gov. Please include 'Part 483' in the subject line when e-mailing.

6 NYCRR Part 659, Household Cleansing Product Information Disclosure Requirements. The Department is considering revisions to 6 NYCRR Part 659 to clarify the information manufacturers should provide pursuant to Article 35 and the method by which the information should be provided. Part 659 implements Article 35, which, in part, authorizes the Department to promulgate regulations to require manufacturers of household cleansing products to disclose information regarding such products in a form prescribed by the commissioner. Amendments to the rule will include the addition of applicable definitions, and the addition of provisions which will provide direction on specific information to be disclosed, direction on withholding information deemed confidential, and direction on web posting requirements by which manufacturers should disclose information to ensure that it is easy to find, machine readable, and accessible to all. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Emily Dominiak, New York State Department of

Environmental Conservation, 625 Broadway, Albany, NY 12233-7253. Telephone: 518-402-8706. E-mail: productdisclosure@dec.ny.gov. Please include 'Part 659' in the subject line when e-mailing.

**Division of Mineral Resources**

6 NYCRR Parts 420, 421, 423, and 425. The Department is proposing to amend 6 NYCRR Parts 420 to 425 to: (1) clarify ambiguous sections; (2) strengthen portions of the regulations; (3) reflect changes in the regulatory fee structure and civil penalties; and (4) reflect changes in scientific knowledge. Amendments to these regulations would be done as one package. The Department is proposing to repeal and replace Part 422 to update requirements regarding the Mined Land-Use Plan.

6 NYCRR Part 420, General. Amend current regulations to expand the definitions to include words used to describe abandonment, technical terms associated with blasting, bluestone, and other terms to ensure consistency with the Mined Land Reclamation Law. Also add regulatory provisions to clarify what projects will be considered construction projects under the Mined Land Reclamation Law.

6 NYCRR Part 421, Permits. Amend current regulations to: (1) add language requiring a mining termination notice to be filed if a complete renewal application is not received within 30 days of the expiration of the permit; (2) add a section codifying the criteria for determining if an excavation is exempt from requiring a mining permit; (3) update the annual regulatory fee schedule to be consistent with the current rates; and (4) restore the alterations and modifications section for proposed changes that are ministerial in nature.

6 NYCRR Part 422, Mined Land-Use Plan. Repeal and replace Part 422 of the current regulations to: (1) revise the language for mined land-use plan requirements; (2) add an expanded section describing the required elements for the graphic portion of the mined land-use plan; and (3) add expanded sections addressing dust control, noise control, visual pollution, water resource protection, sediment and erosion control, and blasting.

6 NYCRR Part 423, Reclamation Bond. Amend current regulations to replace the word bond with financial security throughout the section to reflect the variety of financial instruments that may satisfy the need for financial assurance for reclamation.

6 NYCRR Part 425, Civil Penalties. Amend current regulations to change civil penalties amounts to reflect changes made to ECL § 71-1307(1) subsequent to the last revisions to the regulations.

This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Matthew Podniesinski, New York State Department of Environmental Conservation, Division of Mineral Resources, 625 Broadway, 3rd Floor, Albany, NY 12233-6500. Telephone: 518-402-8076. E-mail: matthew.podniesinski@dec.ny.gov. Please include the Part number when emailing.

**Division of Water**

6 NYCRR Part 502 - Floodplain Management Criteria for State Projects. Revisions would update language to comply with enabling legislation and would update criteria to comply with changes in Federal Emergency Management Agency regulations and New York State Building Code. Part 502 was last updated in 1984. Revisions would include updated definitions, clarifying floodway encroachment requirements, changing lowest floor elevation requirements to reflect the Building Code of New York State, and clarifying the variance application and decision process. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Alan Fuchs, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3504. Telephone 518-402-8185. E-mail: alan.fuchs@dec.ny.gov

6 NYCRR Part 505 - Coastal Erosion Management. Part 505 of 6 NYCRR was last amended in March 1988. Revisions would include clarifying definitions, adding new defined terms, and clarifying language regarding regulated activities in natural protective features areas. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flex-

ibility Analysis. Contact: Alan Fuchs, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3504. Telephone: 518-402-8185. E-mail: alan.fuchs@dec.ny.gov

6 NYCRR Part 601 - Water Withdrawal. Revisions are needed to clarify permit exemptions; add new defined terms; clarify language regarding regulated activities; and remove outdated references to Initial Permits. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Koon Tang, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-3508. Telephone: 518-402-8086. E-mail: koon.tang@dec.ny.gov

6 NYCRR Part 602 - Long Island Agricultural Water Wells. Revisions are needed to reflect that the permit exemption for agricultural water wells on Long Island was eliminated in 1992 by the introduction of paragraph 7 of ECL section 15-1527; provide an exemption for temporary dewatering wells, remedial wells, and closed loop geothermal systems consistent with Part 601; and remove a regulatory gap for small public water supplies. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Koon Tang, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-3508. Telephone: 518-402-8086. E-mail: koon.tang@dec.ny.gov

6 NYCRR Parts 609, and 700 - 706 Water Quality Standards. Revisions would add/revise ambient water quality standards, standard-setting procedures, implementation procedures, and other regulatory provisions. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Alexander Smith, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3502. Telephone 518-402-8287. E-mail: alexander.smith@dec.ny.gov

6 NYCRR 676 - Salt Storage. A new part would be added to regulate the private and municipal storage of road salt and road salt/sand mixtures. Regulations are needed to protect waters of the state from contamination due to the uncovered storage of road salt and road salt/sand mixtures. The rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Ryan Waldron, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3506. Telephone: 518-402-8244. E-mail: ryan.waldron@dec.ny.gov

6 NYCRR Part 750 - State Pollutant Discharge Elimination System (SPDES) Permits. Revisions are necessary to incorporate new federal criteria and standards. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Carol Lamb-LaFay, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3505. Telephone: 518-402-8111. E-mail: carol.lamb-lafay@dec.ny.gov

6 NYCRR Parts 864, 890, 891 & 935 - Site-Specific Enterococcus Water Quality Criteria - Revisions would add site-specific enterococcus criteria for select waters to improve water quality, protect the public health and increase public enjoyment of these waters. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Alexander Smith, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3502. Telephone 518-402-8287. E-mail: alexander.smith@dec.ny.gov

6 NYCRR Part 910 - St. Lawrence River Drainage Basin. Revisions would reclassify surface waters as needed to provide water quality protection consistent with designated best usages, as well as the Clean Water Act (CWA) Section 101(a)(2) goals. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Alexander Smith, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3502. Telephone 518-402-8287. E-mail: alexander.smith@dec.ny.gov



## Workers' Compensation Board

Pursuant to section 202-d of the State Administrative Procedures Act, notice is hereby provided of the following rules which the Workers' Compensation Board ("the Board") is considering proposing but for which a rule making proceeding has not been commenced. All references are to Title 12 of the New York Code of Rules and Regulations unless otherwise noted. The Board's regulatory plans are subject to change, and the Board reserves the right to add, delete, or modify any item. The Board is not required to propose for adoption any rule summarized in this regulatory agenda. In addition, the Board may propose a rule for adoption that was not under consideration at the time that this regulatory agenda was submitted for publication.

This notice is also intended to provide small businesses, local governments, and public and private interests in rural areas with the opportunity to participate in the rule-making process, as provided for in sections 202-b and 202-bb of the State Administrative Procedures Act. All rules described below may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis pursuant to sections 202-b and 202-bb of the State Administrative Procedures Act, respectively.

The public is welcome to send written comments on the Board's Regulatory Agenda to the contact person at the end of this list.

The Board is considering proposing the rules described below:

- Continued amendments to the Medical Treatment Guidelines (including amending the Mid and Low Back, Shoulder, Knee, and Non-Acute Pain Medical Treatment Guidelines).
- Amendments to Title 12 to add regulations related to the direct deposit of workers' compensation benefits as required by Chapter 253 of the Laws of 2020.

The Board will continue to review its rules in an effort to provide for clearer and more accurate references to Board policies and procedures while also eliminating typographical errors and obsolete forms and practices.

To obtain information about or submit written comments concerning any item in this Regulatory Agenda, contact: Heather M. MacMaster, Deputy General Counsel, Workers' Compensation Board, 328 State Street, Schenectady, New York 12305-2318, telephone: (518) 486-9564, e-mail: [regulations@wcb.ny.gov](mailto:regulations@wcb.ny.gov)

# RULE REVIEW

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## State Commission of Correction

As required by Chapter 262 of the Laws of 1996, the following is a list of rules which were adopted by the State Commission of Correction in calendar years 2001, 2006, 2011, and 2016 which must be reviewed in calendar year 2021. Public comment on the continuation or modification of these rules is invited. Comments should be received by April 1, 2021. Comments may be directed to: Brielle Christian, Senior Attorney A.E. Smith State Office Building, 80 S. Swan Street, 12th Floor, Albany, New York 12210-8001.

CMC-03-01-00002 Amendment of subdivision (a) of section 7028.2 and subdivision (c) of section 7028.4 of Title 9 NYCRR.

Analysis of the need for the rule: The rule is needed to clarify the situations when outdoor exercise at local correctional facilities may be canceled.

Legal basis for the rule: Correction Law section 45(6).

CMC-43-00-0005 Amendment of section 7621.6, renumber 7621.7-11 to be 7621.8-12 and addition of new section 7621.7 of Title 9 NYCRR.

Analysis of the need for the rule: The rule is needed to provide minimum standards for the use of double occupancy housing units originally designated and constructed for double occupancy.

Legal basis for the rule: Correction Law section 45(6).

CMC-06-11-00001-P Amendment of section 7003.10 of Title 9 NYCRR.

Analysis of the need for the rule: The rule is needed to extend the intervals within which locks and securing devices must be inspected.

Legal basis for the rule: Correction Law sections 45(6) and 45(15).

CMC-06-11-00002-P Amendment of section 7063.6 of Title 9 NYCRR.

Analysis of the need for the rule: The rule is needed to extend the intervals within which certain chemical agents must be inspected.

Legal basis for the rule: Correction Law sections 45(6) and 45(15).

CMC-45-15-00024-A Amendment of sections 7022.3, 7022.4, 7406.3, 7406.4 and 7508.2 of Title 9 NYCRR.

Analysis of the need for the rule: The rule is needed to allow electronic filing of reportable incidents to the Commission of Correction.

Legal basis for the rule: Correction Law sections 45(6), 45(6-b), 45(15) and 47(2).

## Department of Environmental Conservation

### Introduction

Each year, pursuant to SAPA, the Department publishes a Review of Rules in the State Register and on its website. This is a review of Department rules adopted 3 years previous.

### SAPA Section 207 -- 3-Year Rule Review

The following rules were adopted by the New York State Department of Environmental Conservation (Department) during 2018, and

pursuant to SAPA Section 207 have been reviewed. Comments on the rules that are being amended this year should be directed to the contact person listed in the main body of the Regulatory Agenda. Comments on any rules that are not being changed at this time will be accepted for 45 days from the date of publication in the State Register and should be directed to the regulatory coordinator for the appropriate program, as listed below the rules.

### Division of Air Resources

6 NYCRR Part 232, "Dry Cleaning Facilities." Statutory authority: Environmental Conservation Law Sections 3-0301, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0302, 19-0303, 19-0305, 71-2103, and 71-2105. Part 232 was updated for consistency with federal requirements and amended to improve compliance and program delivery; reduce perc and alternative solvent emissions to the environment; address advancements in technology and changes in the industry regarding the use of alternative dry cleaning solvents; and finally prohibit the use of perc in dry cleaning machines at co-located residential facilities after December 21, 2020. No amendments are planned at this time.

6 NYCRR Part 243, "CSAPR NOx Ozone Season Group 2 Trading Program," 6 NYCRR Part 244, "CSAPR NOx Annual Trading Program," 6 NYCRR Part 245 "CSAPR SO2 Group 1 Trading Program" and 6 NYCRR Part 200, "General Provisions." Statutory authority: Environmental Conservation Law Sections 1-0101, 3-0301, 19-0103, 19-0105, 19-0107, 19-0301, 19-0302, 19-0303, 19-0305, 19-0311, 71-2103 and 71-2105. On September 7, 2016, EPA finalized the Cross-State Air Pollution Rule (CSAPR) Update to address the air quality impacts that result from the interstate transport of ozone air pollution in the eastern United States, particularly the transport of Ozone Season NOx. In the December 19, 2018 rulemaking the Department repealed and replaced existing Parts 243, 244 and 245 to address issues raised by EPA and to conform new Parts 243, 244 and 245 to CSAPR Update. No amendments are planned at this time.

Contact: Richard McAuley, Regulatory Coordinator for the Division of Air Resources, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3258. Telephone: 518-402-8438. E-mail: [air.regs@dec.ny.gov](mailto:air.regs@dec.ny.gov)

### Division of Environmental Permits

6 NYCRR Part 617, State Environmental Quality Review Act. Statutory authority: Environmental Conservation Law Sections 3-0301(1)(b), 3-0301(2)(m) and 8-0113. In June of 2018 the Department adopted amendments to the SEQR regulations with the intent to streamline and improve the SEQR process without sacrificing meaningful environmental review. The amendments expand the statewide Type II list of activities (actions not subject to further review under SEQR), modify certain thresholds in the Type I list of actions (actions deemed more likely to require the preparation of an environmental impact statement (EIS)), make scoping of environmental impact statements mandatory, better define the acceptance procedures for draft EISs, and modify section 617.9 (b)(5)(iii)(i) to include, where applicable and significant, discussion in an EIS of measures to avoid or reduce both an action's environmental impacts and vulnerability from

the effects of climate change such as sea level rise and flooding. The Department has not received many comments regarding issues with compliance or implementation of amendments since the amendments were adopted and is not planning any additional amendments at this time.

Contact: James Eldred, Regulatory Coordinator for the Division of Environmental Permits, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-1750. Telephone: 518-402-9158. E-mail: [deppermitting@dec.ny.gov](mailto:deppermitting@dec.ny.gov)

Division of Fish and Wildlife

6 NYCRR NY Part 3.1 and 3.2, Pertaining to the harvest of diamondback terrapins. Statutory authority: Environmental Conservation Law Sections 11-0107, 11-0905, 11-0103, 11-0311, 11-0535 and 11-0536. Commercial harvest of diamondback terrapins was identified as one of the threats to the species across its range. New York was the only state still allowing commercial take. Part 3.1 was repealed to close the open season for commercial trapping of diamondback terrapins. Part 3.2 was amended to add the eastern diamondback terrapin to the list of native New York turtle species considered small game with no open season. This will give the species protection from taking without a special license. No further action is being undertaken.

Contact: Ashley Ferrusi, Regulatory Coordinator for the Division of Fish and Wildlife, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4750. Telephone: (518) 402-8924. E-mail: [ashley.ferrusi@dec.ny.gov](mailto:ashley.ferrusi@dec.ny.gov)

Office of Climate Change

6 NYCRR Part 492, Climate Smart Communities Projects. Statutory Authority: Environmental Conservation Law (ECL) Article 54, Title 15. Part 492 establishes procedures to implement climate smart communities projects per ECL Article 54, Title 15. The rule is effective as written and requires no amendment.

Contact: Suzanne Hagell, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3258. Telephone: 518-402-8448. E-mail: [suzanne.hagell@dec.ny.gov](mailto:suzanne.hagell@dec.ny.gov). Please include the Part number when emailing.

Division of Lands and Forests

6 NYCRR Section 190.35, Peekamoose Valley Riparian Corridor. Statutory authority: ECL sections 1-0101(3)(b), 3-0301(1)(b), 3-0301(1)(d), 3-0301(2)(m), 9-0105(1) and 9-105(3). This regulation was amended in 2018 to establish a permit system for weekends and holidays to protect public safety and natural resources on this corridor. It will be amended again in the upcoming year to expand the permit system to address continued public safety and natural resource degradation issues.

6 NYCRR Section 190.36, Northern Catskill Riparian Areas. Statutory authority: Environmental Conservation Law, sections, 1-0101(3)(b), 3-0301(1)(b), 3-0301(1)(d), 3-0301(2)(m), 9-0105(1) and 9-0105(3). This regulation protects public safety and natural resources on the Northern Catskill Riparian Areas. No amendments to this regulation are planned for the coming year since implementation has been satisfactory.

6 NYCRR Section 192.7, Control of the Emerald Ash Borer. Statutory authority: Environmental Conservation sections 1-0101(3)(b), 1-0101(3)(d), 3-0301(1)(b), 3-0301(1)(d), 3-0301(2)(m), 9-0105(1), 9-0105(3) and 9-1303. This regulation was repealed in 2015. The regulation no longer served its purpose of slowing the spread of Emerald Ash Borer, therefore no additional rulemaking is necessary.

Contact: Linda Kashdan-Schrom, Regulatory Coordinator for the Division of Lands and Forests, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4250. Telephone: 518-402-9417. Email: [linda.kashdan-schrom@dec.ny.gov](mailto:linda.kashdan-schrom@dec.ny.gov)

Division of Marine Resources

6 NYCRR Part 40, Marine Fish. Statutory authority: Environmental Conservation Law sections 11-0303, 13-0105 and 13-0340-f. Part 40 was amended to reduce the recreational harvest for black sea bass. This rulemaking was necessary to ensure New York State maintained compliance with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan (FMP) for Black Sea Bass. Amend-

ments to Part 40 will be proposed as necessary for New York to remain in compliance with federal rules and interstate fishery management plans.

6 NYCRR Part 40, Marine Fish. Statutory authority: Environmental Conservation Law sections 11-0303, 13-0105 and 13-0340-d. Part 40 was amended to reduce the recreational and commercial harvest for tautog. This rulemaking was necessary to ensure New York State maintained compliance with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan (FMP) for Tautog. Amendments to Part 40 will be proposed as necessary for New York to remain in compliance with federal rules and interstate fishery management plans.

6 NYCRR Part 40, Marine Fish. Statutory authority: Environmental Conservation Law sections 11-0303, 13-0105, 13-0340-b, and 13-0340-e. Part 40 was amended to increase the recreational harvest limits for scup and summer flounder. This rulemaking was necessary to ensure New York State maintained compliance with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan (FMP) for Scup and Summer Flounder. Amendments to Part 40 will be proposed as necessary for New York to remain in compliance with federal rules and interstate fishery management plans.

6 NYCRR Part 41, Sanitary Condition of Shellfish Lands. Statutory authority: Environmental Conservation Law sections 13-0307 and 13-0319. Part 41 was amended to reclassify underwater shellfish lands to protect public health. The amendments designated as uncertified (closed to shellfish harvest) either year-round or seasonally shellfish growing areas in the Towns of Hempstead, Southampton, East Hampton, and Southold; designated as certified (open to shellfish harvest) a growing area in the Town of Southold; and clarified the location of a closure description in the Town of Smithtown. Shellfish harvested from growing areas that fail to meet bacteriological water quality standards may cause illness in those individuals who consume them. Bacteriological water quality testing is an ongoing task; shellfish growing areas will be classified as necessary based on the results of the water quality studies. Amendments to Part 41 will be proposed as needed.

6 NYCRR Part 43, Surf Clam/Ocean Quahog Fishery Management. Statutory authority: Environmental Conservation Law section 13-0309. Part 43 was amended in order to reduce paperwork and streamline the surf clam permitting process. The amendment eliminated two out of three required shellfishing permits for those who harvest surf clams by mechanical means from waters other than the Atlantic Ocean. Amendments to Part 43 will be proposed as necessary for New York to remain in compliance with state laws and fishery management plans.

6 NYCRR Part 44, Lobsters and Crabs. Statutory authority: Environmental Conservation Law sections 11-0303, 13-105 and 13-0329. Part 44 was amended to repeal section 44.1(h) (3) of Title 6 NYCRR and expand lobster fishing opportunities. Amendments to Part 44 will be proposed as necessary for New York to remain in compliance with state laws and fishery management plans.

6 NYCRR Parts 44 and 50, Lobsters and Crabs; and Miscellaneous Marine Species. Statutory authority: Environmental Conservation Law sections 13-0330 and 13-0331. Parts 44 and 50 were amended to modify rules on terrapin excluder devices; horseshoe crab harvest limits; and whelk reporting. The amendments implemented requirements for terrapin excluder devices on crab traps; allowed two horseshoe crab permit holders to harvest from a single vessel; and required mandatory catch reporting for whelk permit holders. Amendments to Parts 44 and 50 will be proposed as necessary for New York to remain in compliance with state laws and fishery management plans.

6 NYCRR Part 49, Shellfish Management. Statutory authority: Environmental Conservation Law section 13-0327. Part 49 was amended to clarify size limit provisions for the taking of bay scallops. Amendments to Part 49 will be proposed as necessary for New York to remain in compliance with state laws and fishery management plans.

Contact: Carol Hoffman, Regulatory Coordinator for the Division of Marine Resources, New York State Department of Environmental Conservation, 205 North Belle Mead Road, Suite 1, East Setauket, NY 11733. Telephone: 631-444-0476. E-mail: [carol.hoffman@dec.ny.gov](mailto:carol.hoffman@dec.ny.gov)



#### Division of Materials Management

6 NYCRR Part 380, Prevention and Control of Environmental Pollution by Radioactive Materials. Statutory Authority: Environmental Conservation Law (ECL) Articles 1, 3, 17, 19, 27, 29 and 37. The 2018 amendments to Part 380 updated provisions that were required for compatibility with federal regulations and simplified and updated language for the purpose of improving clarity and filling regulating gaps. No further amendments to this Part are planned at this time.

Contact: Melissa Treers, Regulatory Coordinator for the Division of Material Management, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-7250. Telephone: 518-402-8678. E-mail: melissa.treers@dec.ny.gov

#### Introduction

Each year, pursuant to SAPA, the Department publishes a Review of Rules in the State Register and on its website. This is a review of Department rules adopted 5 years previous.

#### SAPA Section 207 -- 5-Year Rule Review

The following rules were adopted by the New York State Department of Environmental Conservation (Department) during 2016, and pursuant to SAPA Section 207 have been reviewed. Comments on the rules that are being amended this year should be directed to the contact person listed in the main body of the Regulatory Agenda. Comments on any rules that are not being changed at this time will be accepted for 45 days from the date of publication in the State Register and should be directed to the regulatory coordinator for the appropriate program, as listed below the rules.

#### Division of Air Resources

6 NYCRR Part 200, "General Provisions." Statutory authority: Environmental Conservation Law Sections 1-0101, 3-0301, 19-0103, 19-0105, 19-0301, 19-0303, and 19-0305. In 2016, the Department undertook a rulemaking to accept delegation of new and updated federal New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants. Doing so provided the Department with the legal authority to implement and enforce these federal regulations on behalf of the United States Environmental Protection Agency. The Department is working on a rulemaking to update the list of these federal rules as stated in the 2021 Regulatory Agenda.

6 NYCRR Part 218, "Emission Standards for Motor Vehicles and Motor Vehicle Engines." Statutory Authority: Environmental Conservation Law Sections 1-0101, 1-0303, 3-0301, 19-0103, 19-0105, 19-0107, 19-0301, 19-0303, 19-0305, 19-1101, 19-1103, 19-1105, 71-2103, 71-2105; Federal Clean Air Act, § 177. Part 218 was amended in 2012, 2015, 2016, and 2020 to incorporate California's low emission vehicle (LEV), zero emission vehicle (ZEV), and greenhouse gas (GHG) new vehicle emission standards, and environmental performance label, aftermarket catalytic converter, and warranty requirements. These changes were necessary to maintain the federal Clean Air Act § 177 identity requirement, to achieve necessary emission reductions for the attainment and maintenance of ozone and carbon monoxide standards, and to realize greenhouse gas emission reductions. The Department may amend Part 218 to include California's latest revisions to their medium and heavy-duty truck standards including the Advanced Clean Truck program.

6 NYCRR Part 222, "Distributed Generation Sources." Statutory Authority: Environmental Conservation Law Sections 1-0101, 3-0301, 19-0103, 19-0105, 19-0301, 19-0303, 19-0305, 19-0311, 71-2103 and 71-2105. The June 14, 2015 rulemaking established emission standards, monitoring requirements and record keeping requirements for certain Distributed Generation Sources in New York State. This rulemaking and associated regulations were repealed and replaced by subsequent rulemaking finalized on February 19, 2020. No further action is anticipated at this time.

Contact: Richard McAuley, Regulatory Coordinator for the Division of Air Resources, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3258. Telephone: 518-402-8438. E-mail: air.regs@dec.ny.gov

#### Division of Environmental Remediation

6 NYCRR Part 375, Environmental Remediation Programs; Statutory Authority: Environmental Conservation Law (ECL) Sections

1-0101, 3-0301, ECL Article 27, Title 14. Part 375 was amended to meet statutory mandates in Part BB of Chapter 56 of the Laws of 2015, which amended and added new language to ECL Article 27, Title 14 (Brownfield Cleanup Program, BCP) and certain other laws. The proposal of these regulations resulted in amendments to the BCP law becoming effective on July 1, 2015. The amendments to Part 375 were adopted on July 4, 2016 and effective on August 12, 2016. They included (1) the addition of two new definitions, "affordable housing project" and "underutilized" in 6 NYCRR Subpart 375-3; (2) revisions to the existing "brownfield site" definition at 6 NYCRR 375-1.2(b) to meet the definition in the 2015 BCP law; and (3) deletion of 6 NYCRR 375-3.3(a)(1) to conform to the revised 'brownfield site' definition. No amendments will be made at this time. See 2021 Division of Environmental Remediation Regulatory Agenda regarding the next rule making for amendments to 6 NYCRR Part 375.

Contact: Jennifer Dawson, Regulatory Coordinator for the Division of Environmental Remediation, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-7012. Telephone: 518-402-9764. E-mail: derweb@dec.ny.gov

#### Division of Fish and Wildlife

6 NYCRR Parts 1.11 and 1.18, Pertaining to Deer Hunting and the Issuance and Use of Deer Hunting Tags, and Part 1.31, Pertaining to Hunting Black Bear. Statutory Authority: Environmental Conservation Law Sections 11-0303, 11-0903, 11-0907. This rulemaking was necessary to: (1) provide additional opportunity to junior hunters by allowing them to take bear as well as deer during the youth firearms hunt over Columbus Day Weekend; (2) rescind an antlerless-only requirement established in 2015 during portions of the bow and muzzleloader season in some Wildlife Management Units (WMUs); (3) reduce the take of antlerless deer in WMUs 6F and 6J by allowing hunters to only take antlered deer during the early muzzleloader season to prevent further population decline and stimulate population growth; and (4) make a technical correction to clarify that bow/muzzleloader either-sex and antlerless-only deer tags may both be used during either bow or muzzleloader seasons by properly licensed hunters. There is a current regulatory proposal available for public comment through November 8, 2020 to expand deer hunting opportunity in the Southern Zone. While the regulations adopted in 2016 were effective at achieving the four objectives listed above, additional regulatory proposals are anticipated for 2021 to implement portions of the newly updated New York State Deer Management Plan.

6 NYCRR Sections 6.2 and 6.3, Pertaining to fisher trapping seasons and bag limits and general trapping regulations for furbearers. Statutory authority: Environmental Conservation Law Sections 3-0301, 11-0303, 11-0917, 11-1101, 11-1103, and 11-1105. This rulemaking was necessary to implement changes outlined in the New York State Fisher Management Plan including reducing the fisher trapping season from 46 days to 30 days in selected Adirondack Wildlife Management Units in northern New York and establishing a new six-day trapping season in select Wildlife Management Units in central and western New York. Revisions were also needed to the general trapping regulations to clarify the intent of the regulation and to make them easier for trappers to understand and law enforcement officers to implement. This regulation required trappers to obtain a special permit and submit a fisher carcass and information on trapping effort. After five years of data collection this special permit and associated biological and trapping effort data are no longer needed, so a regulatory proposal will be developed to repeal this requirement. No additional amendments to fisher seasons are planned at this time.

6 NYCRR Part 10, Sportfishing and Associated Activities. Statutory Authority: Environmental Conservation Law, sections 3-0301, 11-0303, 11-0305, 11-0317, 11-1301, 11-1303, 11-1316 and 11-1319. These amendments promote optimum fishing opportunity for public use consistent with resource conservations. The rule is effective as written and requires no amendment.

6 NYCRR Part 183, License Issuing Agents; 6 NYCRR Part 184, Wildlife Rehabilitation Licenses. Statutory Authority: Environmental Conservation Law Sections 11-0305, 11-0713, 11-0515, and 11-0919. The September 14, 2016 Rulemaking removed regulatory requirements that excluded individuals with felonies from obtaining certain licenses

and authorizations. These changes are effective as written and require no amendment.

Contact: Ashley Ferrusi, Regulatory Coordinator for the Division of Fish and Wildlife, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4750. Telephone: (518) 402-8924. E-mail: ashley.ferrusi@dec.ny.gov

#### Division of Lands and Forests

6 NYCRR Section 190.10, Croton Gorge Unique Area. Statutory authority: Environmental Conservation Law sections 1-0101(3)(b), 3-0301(1)(b), 3-0301(2)(m), 9-0105(1) and 9-0105 (3). No amendments to this regulation are planned for the coming year.

6 NYCRR Section 190.35, Peekamoose Valley Riparian Corridor. Statutory authority: ECL sections 1-0101(3)(b), 3-0301(1)(b), 3-0301(1)(d), 3-0301(2)(m), 9-0105(1) and 9-0105(3). This regulation was amended in 2018 to establish a permit system for week-ends and holidays to protect public safety and natural resources on this corridor. Another amendment is needed in the upcoming year to expand the permit system to address continued public safety and natural resource degradation issues.

6 NYCRR Part 576, Aquatic Invasive Species Spread Prevention. Statutory authority: Environmental Conservation section 9-1710. This regulation requires that “reasonable precautions” are taken prior to placing watercraft into public waters to prevent the spread of Aquatic Invasive Species.

6 NYCRR Part 592, Procedures for Modifying or Extinguishing a Conservation Easement held by the NYS Department of Environmental Conservation. Statutory authority: Environmental Conservation sections 3-301(2) (m), 3-301(2) (v), 49-0301, 49-0303(1), 49-0305(7), 49-0307, 49-0307(2), 49-0307(3), 49-0307(2)(a), 49-0307(3)(a) and 49-0307(3)(d). This regulation establishes standards for the department to follow when modifying or extinguishing a conservation easement and provides for a formal public review process. The regulation will be amended in the upcoming year to clarify language in section 592.3, standards, regarding a net conservation benefit to the state.

Contact: Linda Kashdan-Schrom, Regulatory Coordinator for the Division of Lands and Forests, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4250. Telephone: 518-402-9417. Email: linda.kashdan-schrom@dec.ny.gov

#### Division of Marine Resources

6 NYCRR Part 40, Marine Fish. Statutory authority: Environmental Conservation Law sections 11-0303 and 13-0340-f. Part 40 was amended to allow two fishers aboard a single vessel to possess and land the trip limit for black sea bass. This rulemaking was necessary to ensure the safety of black sea bass fishers. Amendments to Part 40 will be proposed as necessary for New York to remain in compliance with federal rules and interstate fishery management plans.

6 NYCRR Part 40, Marine Fish. Statutory authority: Environmental Conservation Law sections 11-0303, 13-0105 and 13-0340-f. Part 40 was amended to reduce the recreational harvest for black sea bass. This rulemaking was necessary to ensure New York State maintained compliance with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Black Sea Bass. Amendments to Part 40 will be proposed as necessary for New York to remain in compliance with federal rules and interstate fishery management plans.

6 NYCRR Part 40, Marine Fish. Statutory authority: Environmental Conservation Law section 13-0333. Part 40 was amended to add the species menhaden and the menhaden trip limits to 6 NYCRR subdivision 40.1(i) Table B – Commercial Fishing. This rulemaking corrected a technical error in the regulations. Amendments to Part 40 will be proposed as necessary for New York to remain in compliance with federal rules and interstate fishery management plans.

6 NYCRR Part 41, Sanitary Condition of Shellfish Lands. Statutory authority: Environmental Conservation Law sections 11-0303, 13-0307 and 13-0319. Part 41 was amended to designate as uncertified (closed to shellfish harvest) either year-round or seasonally shellfish growing areas in the Towns of Oyster Bay, Huntington, Brookhaven, Islip, Riverhead, Smithtown, Southold, Southampton, and East Hampton. Shellfish harvested from growing areas that fail to meet

bacteriological water quality standards may cause illness in those individuals who consume them. Bacteriological water quality testing is an ongoing task; shellfish growing areas will be classified as necessary based on the results of the water quality studies. Amendments to Part 41 will be proposed as needed.

6 NYCRR Part 43, Surf Clam/Ocean Quahog Fishery Management. Statutory authority: Environmental Conservation Law section 13-0309. Subparts 43-2 and 43-3 were amended to prevent a single vessel in the surf clam fishery from catching more than one individual fishing quota in a calendar year to be consistent with the management measures of the NY State Fishery Management Plan for the Atlantic Ocean surf clam fishery. Amendments to Part 43 will be proposed as necessary for New York to remain in compliance with state laws and fishery management plans.

Contact: Carol Hoffman, Regulatory Coordinator for the Division of Marine Resources, New York State Department of Environmental Conservation, 205 North Belle Mead Road, Suite 1, East Setauket, NY 11733. Telephone: 631-444-0476. E-mail: carol.hoffman@dec.ny.gov

#### Division of Water

Revised provisions of Part 750 and Part 621 of Title 6 of the New York Codes of Rules and Regulations. Statutory Authority: ECL: 1-0101(3)(b); 3-0301(1)(b); 3-0301 (1)(t); 3-0301(2)(m); 17-0303(3); 17-0803; 17-0804 and 17-0826-a In accordance with SPRTK, the revised Part 750 regulations require owners and operators of publicly owned treatment works (“POTWs”) and publicly owned sewer systems (“POSSs”) to report untreated and partially treated sewage discharges to DEC and the local health department, or if there is none, the New York State Department of Health, immediately, but in no case later than two hours from discovery of the discharge, and to the general public in no more than four hours using DEC approved electronic media. No amendments are currently being considered.

Contact: Michelle Tompkins, Regulatory Coordinator for the Division of Water, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3500. Telephone: 518-402-8221. E-mail: michelle.tompkins@dec.ny.gov.

## Department of Law Real Estate and Finance

Pursuant to SAPA section 207, the Law Department submits the following list of its rules that were adopted during calendar year 2016 and invites public comment on the continuation or modification of such rules. Comments should be sent to the respective agency representative listed below for each particular rule, and must be received within 45 days of the date of publication of this Notice.

#### RULES ADOPTED OR REVISED IN 2016

(1) LAW-47-15-00007-RP Certification of Protections for Senior and Disabled Tenants During Condominium or Cooperative Ownership Conversions

Addition of sections 18.1(e)(5), (6), 18.5(e)(10), 23.1(e)(5), (6) and 23.5(e)(10); and the amendment of sections 18.3(d), (l), 23.3(d), (m), and (n)(8) of Title 13 NYCRR.

Analysis of the need for the rule: To clarify the Martin Act’s non-purchasing tenant protections for eligible senior citizens and eligible disabled persons.

Legal basis for the rule: General Business Law, Section 352-e(6)

(2) LAW-49-15-00011-A Disclosure Requirement for Condominium Offerors Renting, Rather than Selling, Unsold Condominium Units

Amendment of Part 20 of Title 12 NYCRR

Analysis of the need for the rule: To clarify a condominium offeror’s disclosure obligations in a newly-constructed, vacant, or non-residential condominium.

Legal basis for the rule: General Business Law, Section 352-e(6)

(3) LAW-42-15-00015-A Digital Submission Requirements for Cooperative Interests in Realty

Amendment of Parts 18, 20, 21, 22, 23, 24 and 25 of Title 13 NYCRR.



Analysis of the need for the rule: To streamline the Department of Law's regulations and internal operations while also reducing transaction costs and paper waste.

Legal basis for the rule: General Business Law, Section 352-e(6)

Agency Representative: Written comments concerning the continuation or modification of the above rule may be submitted to: Jackie Dischell, Bureau Chief, 28 Liberty Street, New York, NY 10005, (212) 416 8655, Jackie.Dischell@ag.ny.gov

## Department of Motor Vehicles

As required by section 207 of the State Administrative Procedure Act, the following is a list of rules that were adopted by the Department of Motor Vehicles in calendar years 2001, 2006, 2011 and 2016 which must be reviewed in calendar year 2021. Public comment on the continuation or modification of these rules is invited and will be accepted for 45 days from the date of publication in the State Register. Comments may be directed to: The Department of Motor Vehicles, Counsel's Office, 6 ESP, Room 522A, Albany, NY 12228.

2001

MTV-47-00-00009 - Part 48 - Transportation of Logs.

Analysis of the need for the rule: This regulation incorporated by reference the New York State Department of Transportation rules regarding securing loads on commercial motor vehicles. State DOT's regulations incorporate by reference the federal standard for load securement. Incorporating DOT's regulation insured that operators of such vehicles must comply with only one standard and also diminished confusion in the law enforcement community about the appropriate standard.

Legal basis for rule: Vehicle and Traffic Law sections 215(a) and 377(2).

MTV-52-00-00002 - Part 46 - Reflective tape on school buses.

Analysis of the need for the rule: This regulation was necessary to conform to Chapter 525 of the Laws of 1999, which required reflective tape on school buses. Its purpose was to make school buses more visible to the motoring public. Since the statute regarding this requirement is still in place, this rule remains necessary.

Legal basis for rule: Vehicle and Traffic Law sections 215(a) and 375(21-h).

MTV-26-01-00004 - Part 78 - Sale of special number plates by dealers.

Analysis of the need for the rule: This regulation was necessary to comply with Chapter 452 of the Laws of 2000, which provided that dealers could assist customers in obtaining custom plates from the DMV. The law authorized dealers to charge \$5 for this service. The regulation required dealers to notify the customer of the \$5 fee and the cost of the plate. Since the law is still in place, this regulation remains necessary.

Legal basis for rule: Vehicle and Traffic Law sections 215(a) and 403-b.

MTV-22-01-00003 - Parts 82 and 127- Procedures for Hearings.

Analysis of the need for the rule: The amendments to Parts 82 and 127 established uniform hearing procedures for all regulated parties: repair shops, dealers and inspection stations. The rule also conformed to Vehicle and Traffic Law section 415(9-a) to provide that if a dealer's registration is suspended pending hearing, such hearing must be held within 10 days. Finally, the rule extended the time within which a fatal accident hearing must be held, from 6 to 12 months. In light of the large number of fatal accidents and the length of time it takes for law enforcement to fully investigate such accidents, this extension remains warranted.

Legal basis for rule: Vehicle and Traffic Law sections 215(a), 398(f)(1)(b), 398-g(2) and 415(9-a), and section 301 of the State Administrative Procedure Act.

MTV-32-01-00001 - Parts 121, 122, 123, 124 and 125 - Traffic Violation Bureau hearings.

Analysis of the need for the rule: This rule clarified procedures about how to answer summonses (by mail, phone or in person) and

how to reschedule a hearing in the DMV's Traffic Violation Bureaus. These amendments remain necessary to conform to TVB procedures.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 225(3), 226(1), 226(2) and 227(1).

MTV-33-01-00004 - Part 32 - Insurance identification cards.

Analysis of the need for the rule: This amendment made several technical amendments to the regulations governing insurance identification cards. Most significantly, it required the use of an encrypted two dimensional bar code. Since this bar code assists with weeding out fraudulent ID cards, the regulation remains necessary.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 311(10), 312(4) and (5), 319(3) and 370(1).

MTV-39-01-00025 - Part 35 - Enforcement of Motor Vehicle Liability Insurance Laws.

Analysis of the need for the rule: This regulation repealed and adopted a new Part 35, in relation to enforcement of the liability insurance rules. With the implementation of the Insurance Information Enforcement System (IIES), companies electronically report new policies and cancellations to the DMV. The amendments put motorists and insurers on notice about how the DMV notifies motorists about their failure to maintain insurance and the sanctions and penalties resulting from non-compliance. This rule is still valid and remains necessary.

Legal basis for the rule: Vehicle and Traffic Law 215(a), 312(4), 313(2)(c), 313(4), 318(1) and 319(1).

2006

MTV-04-06-00002 - Part 3 - Driver license requirements.

Analysis of the need for the rule: This regulation was adopted for three reasons. First, conforming regulatory changes were needed in light of Chapter 339 of 2005, which provided that a class D license is valid to operate a vehicle weighing up to 26,000 pounds. Thus, the O2 restriction was eliminated because it applied to trucks not exceeding 18,000 pounds. Second, chapter 60 of 2005 required that the tow truck endorsement should be "W," not "CT." Finally, an A3 restriction was created to provide that school bus and municipal drivers could hold a commercial driver's license without complying with federal medical requirements. Superseding amendments have renamed that restriction "med cert," but the scope of the restriction is still applicable.

Legal basis for rule: Vehicle and Traffic Law sections 215(a), 501 and 501-a.

MTV-27-06-00010 - Part 136 - Restoration of Commercial Driver's licenses.

Analysis of the need for the rule: This regulation provides that if a person's driver's license is revoked and such person's underlying non-commercial driver's license is restored, then such person's commercial driver's license shall automatically be restored upon serving the minimum revocation period, unless such person commits additional violations of the law. A person whose license is revoked must apply for relicensure to the DMV upon serving the minimum period of revocation. The Commissioner conducts a thorough review of the person's driving record under Part 136. If the non-commercial portion of the license is restored, the commercial portion of such license will remain revoked even if the underlying non-commercial portion is restored—usually the commercial portion is revoked for a longer period of time. However, once such person serves the minimum revocation period related to commercial license sanctions, that portion of the license is automatically restored because the Commissioner has already conducted a full Part 136 review. The regulation benefits the customer because he/she does not have to apply again and it benefits the DMV because employee resources are conserved.

Legal basis for rule: Vehicle and Traffic Law sections 215(a), 510(6)(a) and 1193(2)(c)(1).

2011

MTV-50-10-00002 - Part 131 - Points for Cell Phone Violations.

Analysis of the need for the rule: This regulation imposed two points for cell phone violations, because statistics demonstrated the serious highway safety risk posed by persons using cell phones while operating a motor vehicle. This regulation was superseded by subsequent regulatory amendments, resulting in the current assignment of 5 points for cell phone violations.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a) and 510(3)(i).

MTV-51-10-00006 - Part 77 - Private Service Bureaus.

Analysis of the need for the rule: This amendment required private service bureaus, which assist customers in obtaining licenses, registrations and titles, to post on their websites a disclaimer that the services they provide may be obtained for no additional charge directly from the Department of Motor Vehicles' website. This regulation is still required, in order to notify customers of their options.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a) and 395.

MTV-51-10-00008 - Part 79 - Inspection of stretch limousines.

Analysis of the need for the rule: This amendment required stretch limousines carrying 10 or more passengers to be subject to the Department of Transportation's stringent bus safety inspection. This regulation remains necessary in order to insure the structural integrity of stretch limousines.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 301(a), (c) and 302(a) and (c), and section 140 of the Transportation Law.

MTV-51-10-00010 - Part 160 - Fee for Driver's Manual.

Analysis of the need for the rule: The regulation required entities to pay \$1 for the cost of a driver's manual; applicants for a learner's permit would still obtain the manual for free. The \$1 fee was necessary to defray the costs of publishing the manual, particularly bulk sales for the benefit of driving schools and the American Automobile Association (AAA). This regulation is still needed to defray the cost of producing the manual.

Legal basis for the rule: Vehicle and Traffic Law section 215(a) and Public Officers Law section 87(1)(b).

MTV-51-10-00023 - Part 136 - Relicensing After Revocation/Problem Driver.

Analysis of the need for the rule: The regulation strengthened the provisions related to relicensing after revocation, particularly in relation to "problem drivers" and in reviewing out-of-state alcohol related convictions when reviewing a driver's entire record. These amendments remain necessary and critical to the DMV's mission of keeping dangerous drivers off of our State's highways.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 510(6)(a) and 1193(2)(c).

MTV-19-11-00002 - Part 79 - Application for inspection station license.

Analysis of the need for the rule: This regulation limited the number of inspection stations in most counties in the State. Without such a limitation, the DMV was unable to audit and investigate such stations, in order to monitor their compliance with statutory and regulatory requirements. Non-compliance not only puts consumers at risk, but also threatens the State's compliance with the federal Clean Air Act. Such Act, which requires the State to annually conduct a specified number of audits of each inspection station. This regulation remains necessary to ensure compliance with the Act and to provide consumer protection.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 301(a), (d)(1), 302(a), (e), 303(a)(1) and (d)(1).

MTV-31-11-00006 - Part 131 - Points for cell phone and texting violations.

Analysis of the need for the rule: This regulation increased the points for cell phone violations from 2 to 3 points and assigned 3 points for texting violations. This regulation was superseded by a subsequent regulation, resulting in the current assignment of 5 points for cell phone and texting violations.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a) and 510(3)(i).

2016

MTV-03-16-00005 - Part 78.9 - Use of the Vehicle Electronic Reassignment and Integrated Facility Inventory System.

Analysis of the need for the rule: This regulation requires vehicle

dealers to use the Vehicle Electronic Reassignment and Integrated Facility Inventory ("VERIFI") system. This system is part of the modernization of several paper-based processes performed by dealers. This amendment requires dealers to maintain electronic recordkeeping and transmission of information related to sale of vehicles by using the VERIFI system. This regulation remains necessary because it provides dealers with a simple, convenient way to perform required vehicle transactions.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a) and 415.215(a).

MTV-15-16-00009 - Part 78.3 - Enforcement of off premise sales regulation.

Analysis of the need for the rule: This regulation provides for enforcement of off premise sales regulation. This amendment sets forth that an applicant for a dealer registration must have and continuously maintain a place of business in the state and only a New York registered retail dealer may engage in buying and selling of vehicles at retail as a business in New York; and an application for registration shall be denied or if one has been approved such registration shall be subject to suspension, revocation and/or a civil penalty where the Commissioner has reasonable grounds to believe that such application has been or will be used for the purpose of circumventing the restrictions regarding sales away from premises. This regulation is necessary to maintain oversight of off-premises sales and provide for an enforcement mechanism for violations.

Legal basis for the rule: Vehicle and Traffic Law Sections 215(a) and 415.

MTV-18-16-00001 - Part 136.4 and 136.5 - Relicensing after revocation pursuant to a fatal accident hearing.

Analysis of the need for the rule: This rule authorizes the Commissioner to deny relicensure after revocation if such revocation is the result of either a fatal accident hearing conducted by a Department of Motor Vehicles' Administrative Law Judge (ALJ) or a conviction in a Traffic Violations Bureau or court of competent jurisdiction, where such conviction arises out of a fatal accident. This regulation is necessary to continue to keep dangerous drivers off our State's highways.

Legal basis for the rule: Vehicle and Traffic Law Sections 215(a), 501(2)(c), 510(6), 1193(2)(b)(12), 1193(2)(c)(1) and 1194(2)(d)(1).

MTV-22-16-00007 - Part 16.1, 16.2 and 16.5 - Special and reserved series plates.

Analysis of the need for the rule: This rule authorizes the Commissioner to oversee "Special Number Plates" which include personalized license plates and "reserved series" license plates. This popular program permits motorists to request personalized plates and authorizes the Commissioner to ensure such plates are appropriate. The reserved series plates are likewise popular with organizations wishing to raise awareness of a given issue, group or even sports teams. This rule governs the requirements for reserved series plates, including bonding. Part 16 is required to continue these programs and the revenue generated from special number plates.

Legal basis for the rule: Vehicle and Traffic Law Sections 215(a), 404 and 411-a.

MTV-25-16-00003 - Part 131.3 - Points for railroad crossing violations.

Analysis of the need for the rule: This regulation assigns point values to traffic violations, including railroad crossing violations under Part 131.3(b)(4)(iv). Assigning five points to railroad crossing violations ensures that the public understands the gravity of such violations and takes railroad safety seriously.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a) and 510(3)(i).

MTV-28-16-00003 - Part 134.14 - Fees charged for the Impaired Driving Program course.

Analysis of the need for the rule: This regulation governs fees paid by participants in the Impaired Driving Program (IDP). The fees defray the expenses of the program and consist of two parts. The first part of the fee is paid to the Department to defray the administrative costs of the program and the second part of the fee is paid to the authorized provider for the IDP course. These fees are necessary to

continue the IDP program, help motorists recover from substance use issues, and to make our highways safer.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 1196(1) and 1196(6).

### Public Service Commission

Pursuant to § 207 of the State Administrative Procedure Act: Review of Existing Rules, notice is hereby provided that the Public Service Commission proposes to continue the following rules adopted in 2001, 2006, 2011 and 2016 without modification or as previously revised. Comments are welcome on proposed continuation of the rules. Five copies of comments should be sent to: Michelle Phillips, Secretary to the Commission, 3 Empire State Plaza, Albany, New York 12223-1350, on or before March 24, 2021. Information about the rules may be obtained from: John C. Graham, Assistant Counsel, 3 Empire State Plaza, Albany, New York 12223-1350; (518) 474-7687.

1. 16 NYCRR Part 93 (Case No. 99-E-1691).

a. Description of rules:

These regulations are applicable to approval of new types of electricity meters, instrumental transformers and auxiliary devices. They allow energy services companies or competitive meter service providers subject to Commission consumer services protection and oversight to request meter approval without utility sponsorship.

b. Statutory authority: Public Service Law § 67(4)

c. No hearings or public meetings are scheduled.

d. The rules are in effect and will continue.

e. Need for and legal basis of rules:

The regulations approve new types of electricity meters used for customer billing in order to open metering services to competition, expands customer choice and provide a safe, secure, and reliable energy delivery system by allowing energy services companies or competitive meter service providers subject to Commission consumer services protection and oversight to request meter approval without utility sponsorship. Only meters approved by the Commission and in conformance with the American National Standard Code for Electric Metering (ANSI C12) can be used for customer billing and the regulations require notification to the Commission of any modifications to previously approved meters.

2. 16 NYCRR Subpart 85-2 and Parts 86 and 88 (Case No. 06-M-1019).

a. Description of rules:

Amended the regulations implementing Article VII of the Public Service Law contained in 16 NYCRR Subpart 85-2, Procedures with Respect to All Electric Transmission Lines and Fuel Gas Transmission Lines 10 or More Miles Long, Part 86, General Exhibits, and Part 88, Exhibits for Electric Transmission Filings. In order to make it possible for the Commission to act on a National Interest Electric Transmission Corridor (NIETC) project within one year, a new § 85-2.9 was added to specify precisely the information an application for an electric transmission line in a NIETC must contain in order to be considered "filed." In addition, this section streamlined the review process by identifying those application requirements specific to portions of transmission lines that are proposed to be installed overhead, underground or underwater, thus avoiding the need to process a significant number of waiver requests. The amendments also clarified applicants' obligations regarding substantive local legal provisions and transmission system studies.

b. Statutory authority: PSL §§ 4(1), 20(1), 122(1), (f).

c. No hearings or public meetings are scheduled.

d. The rules are in effect and will continue.

e. Need for and legal basis of rules:

The rules address the impacts of electricity transmission limitations in New York State by speeding up the application process for NIETC projects. They precisely specify the information required on an application to install an electric transmission line, thus enabling the Public Service Commission to act on the proposed project within a year. The end result of quick approval of energy transmission projects is

enhancement of transmission capacity, which furthers reliability and national security interests.

3. 16 NYCRR Chapters I, II, III, IV, V, VI, VII, and VIII (Case No. 09-M-0544).

a. Description of the rules:

Amended Chapter I, Subchapters A, C and G, Chapter II, Subchapters A and G, Chapter III, Subchapters A and G, Chapter IV, Subchapters C and G, Chapter V, Subchapters A and F, Chapter VI, Subchapters A, E and F, Chapter VII, Subchapters C and D, and Chapter VIII, Subchapter B. The amendments improved the Department's efficiency in the receipt, processing and issuance of documents while reducing reliance on paper.

b. Statutory authority: Public Service Law §§ 4(1), 5(2), 7(1), 16(1), 20(1)

c. No hearings or public meetings are scheduled.

d. The rules are in effect and will continue.

e. Need for and legal basis of the rules:

The amendments provide for electronic filing and service as the preferred method but allow paper filing in specific instances which improve Department efficiency in the receipt, processing, and issuance of documents while reducing reliance on paper and preserve environmental values, conserve natural resources and remove obsolete or redundant provisions.

### Department of Taxation and Finance

Pursuant to section 207 of the State Administrative Procedure Act (SAPA) the Department of Taxation and Finance intends to review the following rules during 2021 and invites written comments on the continuation or modification of these rules in order to assist the Department in the required review. We will consider comments that are received by March 7, 2021. Any questions concerning the items listed in this rule review or comments regarding the continuation of the rules being reviewed should be referred to: Office of Counsel, Department of Taxation and Finance, W.A. Harriman Campus, Building 9, Room 200, Albany, New York 12227. Telephone: (518) 530-4153, Email address: tax.regulations@tax.ny.gov.

RULES ADOPTED IN 2013

1. TAF-37-12-00005-A Combined Reports.

This rule amended Parts 3, 6, and 21 of Title 20 NYCRR; and added Part 33 to Title 20 NYCRR, relating to combined reports.

Analysis of the need for the rule: This rule updated certain provisions of 20 NYCRR and codified Department interpretation regarding combined reports. The rule also made technical amendments relating to the filing of combined reports by Real Estate Investment Trusts (REITs) and Regulated Investment Companies (RICs).

The notice of proposed rulemaking included a regulatory flexibility analysis and a rural area flexibility analysis.

Legal basis for the rule: Tax Law sections 171, subdivision First, 1096(a), 1468 and 1519.

2. TAF-48-12-00008-A Tax Return Filings for Licensed Farm Breweries.

This rule amended section 60.1 of Title 20 NYCRR regarding tax return filings for licensed farm breweries.

Analysis of the need for the rule: Farm breweries, like micro-brewers licensed under sections 51 and 56 of the Alcoholic Beverage Control Law, are restricted to producing no more than 60,000 barrels of beer annually. Section 60.1 of the regulations allows micro-brewers and restaurant brewers to file annual beer tax returns rather than the monthly returns that would otherwise be required. The rule amended section 60.1 of the regulations to allow persons registered as farm breweries pursuant to section 51-a of the Alcoholic Beverage Control Law to also file annual beer tax returns in lieu of monthly returns, reducing the filing burden on such taxpayers.

The notice of proposed rulemaking did not include a regulatory flexibility analysis, a rural area flexibility analysis or a job impact statement.

Legal basis for the rule: Tax Law sections 171, subdivision First, 429(1), and 436 (not subdivided).



### 3. TAF-38-13-00008-A Tax Return Preparers.

This rule added Part 2600; repealed section 158.12(1)(iv); and amended section 158.12(1)(v)-(ix) of Title 20 NYCRR regarding tax return preparers.

Analysis of the need for the rule: The rule regulates the tax return preparer industry. The purpose of the rule is to advance tax administration, elevate the professionalism of the tax return preparation industry, and protect NYS taxpayers. The rule imposes educational and testing requirements, and provides minimum standards of conduct for registered tax return preparers. The rule further provides for sanctions for failure to satisfy these requirements, or for deviation from the conduct standards.

The rule imposes minimal educational and testing requirements, as well as basic standards of conduct. These requirements balance the need to protect taxpayers against the need to avoid imposing undue burdens on tax return preparers.

The notice of proposed rulemaking included a regulatory flexibility analysis and a rural area flexibility analysis.

Legal basis for the rule: Tax Law sections 32, 171, subdivision First, 697(a); and Section 4 of Part VV of Chapter 59 of the Laws of 2009.

### 4. TAF-39-13-00007-A Mailing of Certain Excise Tax Documents.

This rule amended sections 68.3, 68.4, 73.1 and 417.2 of Title 20 NYCRR regarding mailing of certain excise tax documents.

Analysis of the need for the rule: This rule eliminated references to the mailing of certain excise tax publications and documents by the Department. This allowed the Department to disseminate these documents by more efficient methods, such as the Internet and electronic mail, thereby reducing its printing and mailing costs.

The notice of proposed rulemaking did not include a regulatory flexibility analysis, a rural area flexibility analysis or a job impact statement.

Legal basis for the rule: Tax Law sections 171, subdivision First; 436 (not subdivided) and 475 (not subdivided).

### 5. TAF-39-13-00008-A Offers in Compromise.

This rule amended Parts 5000 and 5005, and section 4000.4; and repealed section 7-4.5 of Title 20 NYCRR regarding offers in compromise.

Analysis of the need for the rule: This rule reflects the amendments made by Chapter 469 of the Laws of 2011 and defines what constitutes undue economic hardship in the context of offers in compromise.

The notice of proposed rulemaking did not include a regulatory flexibility analysis, a rural area flexibility analysis or a job impact statement.

Legal basis for the rule: Tax Law sections 171, subdivisions First, Fifteenth and Eighteenth-a and 1096(a); and Chapter 469 of the Laws of 2011.

### 6. TAF-39-13-00009-A Service of Process on the Department.

This rule amended section 2391.3(a) of 20 NYCRR to eliminate the option to personally serve the Department with process at its district offices.

Analysis of the need for the rule: This rule eliminated the option of personally serving the Department with legal process at its district offices, thereby making it possible for the Department to streamline departmental operations by discontinuing all walk-in services previously available at district offices, including receipt of process. Taxpayers retained the options of serving the Department personally at its principal office in Albany, NY, or by first class or certified mail.

The notice of proposed rulemaking did not include a regulatory flexibility analysis, a rural area flexibility analysis or a job impact statement.

Legal basis for the rule: Tax Law section 171, subdivision First; and Civil Practice Law and Rules, section 307.

### RULES ADOPTED IN 2011

#### 1. TAF-02-11-00011-A Assistance Program to Encourage Local Governments to Reassess on a Cyclical Basis.

This rule amended Real Property Tax Law, sections 201(1), 202(1)(k), and 1573(1)(a); and L. 2010, ch. 56, parts W and Y regard-

ing an assistance program to encourage local governments to reassess on a cyclical basis.

Analysis of the need for the rule: The rule provided guidelines to implement the statutory authorized assistance to local governments to encourage a cycle of reassessments through voluntary participation in the assistance program.

Legal basis for the rule: Real Property Tax Law, sections 201(1), 202(1)(k), and 1573(1)(a); and L. 2010, ch. 56, parts W and Y.

#### 2. TAF-10-11-00002-A Bureau of Conciliation and Mediation Services Procedures.

This rule amended Part 4000 of Title 20 NYCRR regarding Bureau of Conciliation and Mediation Services procedures to reflect current statutory provisions. The rule also allowed the Department to expand the manner in which taxpayers may request a conciliation conference, such as by allowing requests in an electronic format. It also referenced mailing rules relating to designated delivery services and made other minor technical amendments.

Analysis of the need for the rule: The rule reflected statutory provisions relating to filing of certain petitions and made other minor technical amendments.

Legal basis for the rule: Tax Law, sections 170(3-a) and 171, subdivision First.

### RULES ADOPTED IN 2006

#### 1. TAF-52-05-00018-A Timely Electronic Filing and Electronic Paying.

This rule amended sections 2399.1, 2399.2(a)(1) and (d); added sections 2399.2(e) and (f); and amended the titles of Part 2399 and sections 2399.2 and 2399.3 of Title 20 NYCRR regarding timely electronic filing and electronic paying.

Analysis of the need for the rule: This rule updated the Department's Procedural Regulations concerning the timeliness of documents and payments that are filed and remitted by electronic means.

Legal basis for the rule: Tax Law, section 171, subsd. First and Fourteenth.

#### 2. TAF-34-06-00005-A Taxation of Corporate Partners.

This rule amended section 1-2.6 and Parts 3 and 4 of Title 20 NYCRR regarding taxation of corporate partners.

Analysis of the need for the rule: This rule provided guidance with regard to the computation of the business corporation franchise tax imposed by Article 9-A of the Tax Law for corporations that are partners in partnerships or that are members of limited liability companies that are treated as partnerships under Article 9-A.

Legal basis for the rule: Tax Law, sections 171, subd. First and 1096(a).

#### 3. TAF-43-06-00006-A New York Reportable Transactions.

This rule added Part 2500 to Title 20 NYCRR regarding New York reportable transactions.

Analysis of the need for the rule: The Department's Procedural Regulations were amended to add a new Part 2500 to provide a definition of a New York reportable transaction and the disclosure requirements for participation in a New York reportable transaction. Under Part 2500, a New York reportable transaction is a transaction that has the potential to be a tax avoidance transaction under articles 9, 9-A, 22, 32, or 33 of the Tax Law.

Legal basis for the rule: Tax Law, sections 25(a)(3); 171; subd. First; 697(a); and 1096(a).

#### 4. TAF-43-06-00007-A New York Source Income of Nonresidents and Part-Year Residents from Stock Options.

This rule amended Parts 132 and 154 of Title 20 NYCRR regarding New York source income of nonresidents and part-year residents from stock options, stock appreciation rights and restricted stock to provide allocation rules.

Analysis of the need for the rule: This rule complied with the statutory directive of Tax Law sections 631(g) and 638(c), as amended by Chapter 62 of the Laws of 2006, requiring the Department to propose regulations within 180 days of enactment to provide allocation rules for certain nonresidents and part-year residents who were granted stock options, stock appreciation rights or restricted stock.



Legal basis for the rule: Tax Law, sections 171, subd. First; 631(g); 638(c); 697(a); and L. 2006, ch. 62, part N, section 3.

5. RPS-27-06-00006-A Training Requirements for New York City Assessors.

This rule added Subpart 188-8 to Title 9 NYCRR regarding training requirements for New York City assessors.

Analysis of the need for the rule: This rule implemented the program of training, certification and minimum qualification standards for New York City Assessors that was established by L.20 05, ch. 139.

Legal basis for the rule: Real Property Tax Law sections 202(1)(l) and 350-364.

6. RPS-38-06-00001-A Real Property System (RPS) License Fees.

This rule amended section 190-3.2 of Title 9 NYCRR regarding License fees for users of the Real Property System (RPS).

Analysis of the need for the rule: This rule revised the annual license fees payable by users of RPS.

Legal basis for the rule: Real Property Tax Law section 202(1)(l) and State Finance Law section 97-kk.

#### RULES ADOPTED IN 2001

1. TAF-23-01-00043-A Taxpayer Record Retention Formats.

This rule amended sections 39.1, 51.2(f), 54.2, 56.1, 61.3, 68.4(e), 75.5(c), 158.3, 158.4, 267.3, 413.4, 417.1, 417.2(e), 418.1, 483.1, 483.5, 533.2, 538.4, 542.1, and addition of Part 2402 to Title 20 NYCRR regarding taxpayer record retention formats.

Analysis of the need for the rule: The Department's Procedural Regulations were amended to add a new Part 2402 to ensure timely compliance with the record retention and electronic record keeping provisions of the state Electronic Signatures and Records Act (State Technology Law, section 301 et seq.) and the federal Electronic Signatures in Global and National Commerce Act (15 USCS, section 7001 et seq.). Part 2402 provides for the voluntary use of electronic records by taxpayers and prescribes general standards applicable to the retention of electronic records that ensure that taxpayers who exercise this option are complying with their responsibilities under the Tax Law and under other applicable laws that are administered by the Commissioner. Conforming amendments were also made to sections 39.1, 51.2(f), 54.2, 56.1, 61.3, 68.4(e), 75.5(c), 158.3, 158.4, 267.3, 413.4, 417.1, 417.2(e), 418.1, 483.1, 483.5, 533.2, 538.4, and 542.1 of the regulations.

Legal basis for the rule: Tax Law section 171, subds. First and Fourteenth.

2. TAF-17-01-00002-A Tax Rates.

This rule amended Part 530 of Title 20 NYCRR regarding tax rates and bracket schedules contained in the sales and use tax regulations.

Analysis of the need for the rule: This regulation was amended to repeal the tax rates and bracket schedules which indicated the amount of sales tax to be collected for various amounts of sales prices and tax rates, and replace them with standard methodology for rounding the amount of sales tax to be collected to the nearest penny.

Legal basis for the rule: Tax Law sections 171, subd. First; 1132(b); 1142(1) and (8); and 1250 (not subdivided).

3. TAF-26-01-00017-A The flags of the United States of America and the State of New York.

This rule amended section 528.12(b)(1) and repealed section 528.12(c) of Title 20 NYCRR regarding flags of the United States of America and New York State.

Analysis of the need for the rule: This regulation was amended to update the definition of the term "flag" and, accordingly, to exempt from State and local sales and use taxes flags that are made from materials in addition to cloth and those accessories that are used solely for the display of the flag and are sold with the flag for a single charge.

Legal basis for the rule: Tax Law sections 171, subd. First; 1142(1) and (8); and 1250 (not subdivided).

4. RPS-08-01-00004-A Procedures for Market Value Surveys.

This rule amended Parts 186 and 191 of Title 9 NYCRR regarding procedures for determining State equalization rates with the goal of

providing for more accurate and timely measurements of relative municipal full value for use in calculating the rates.

Analysis of the need for the rule: This rule made various revisions to the procedures for determining State equalization rates with the goal of providing for more accurate and timely measurements of relative municipal full value for use in calculating the rates.

Legal basis for the rule: Real Property Tax Law sections 202(1)(l) and 1202.

5. RPS-43-01-00007-A Reports by Special Franchise Owners and Review of Special Franchise Complaints.

This rule amended Part 197 of Title 9 NYCRR regarding reporting requirements to which special franchise owners were subject and provided a more specific and consistent structure for the filing of complaints.

Analysis of the need for the rule: This rule simplified the reporting requirements to which special franchise owners were subject and provided a more specific and consistent structure for the filing of complaints.

Legal basis for the rule: Real Property Tax Law sections 202(1)(l), 600, 604 and 612.



# NOTICE OF AVAILABILITY OF STATE AND FEDERAL FUNDS

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Environmental Facilities Corporation  
Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233-3502

If you have questions about the EPG, you may also email the DEC's  
Division of Water grants team at: [CFAWATER@dec.ny.gov](mailto:CFAWATER@dec.ny.gov)

If you have questions about the GIGP, you may also email the GIGP  
team at: [GIGP@efc.ny.gov](mailto:GIGP@efc.ny.gov)

## CLEAN WATER STATE REVOLVING FUND ELIGIBLE PROJECTS

### Green Innovation Grant Program

The New York State Environmental Facilities Corporation (EFC) is pleased to announce the availability of \$17 million in grant funding through the Green Innovation Grant Program (GIGP). The GIGP provides grants on a competitive basis to Clean Water State Revolving Fund (CWSRF) eligible projects that improve water quality and mitigate the effects of climate change through the implementation of one or more of the following practices:

- Green Stormwater Infrastructure

- Energy Efficiency

- Water Efficiency

The Program Overview for the GIGP can be found on EFC's website at: <https://www.efc.ny.gov/GIGP>

### Engineering Planning Grant

The New York State Department of Environmental Conservation (DEC), in conjunction with EFC, will offer grants to municipalities to help pay for the initial planning of CWSRF eligible water quality projects. Up to \$2 million has been made available for this round of the Wastewater Infrastructure Engineering Planning Grant (EPG) program. Grants of up to \$100,000 are available to finance engineering and planning services for the production of an engineering report.

The goal of the EPG program is to encourage communities to advance water quality projects to construction by funding the development of an engineering report so the community may be prepared to seek financing through the CWSRF program, Water Quality Improvement Project program, or other funding entities to pursue the identified solution.

The Program Overview for the EPG can be found on DEC's website at: <https://www.dec.ny.gov/pubs/81196.html>

### Application Due Date:

Applications for both grant programs must be submitted through the Consolidated Funding Application website at: <https://apps.cio.ny.gov/apps/cfa/index.cfm> by 4:00 p.m., February 12, 2021.

### Webinar:

EFC will host a webinar to present the GIGP and EPG programs on January 13, 2021 at 11:00 am. A recording of the webinar will be available on EFC's website for those who cannot attend the live webinar. This event will provide an overview of GIGP and EPG, as well as guidance on how to apply for grant funds. There will also be an opportunity to ask questions. You may register for the webinar on EFC's website at: [www.efc.ny.gov](http://www.efc.ny.gov)

### CONTACTS:

*If you have questions on either program, please email:* [Dwight.Brown@efc.ny.gov](mailto:Dwight.Brown@efc.ny.gov) or contact Dwight Brown, Division of Engineering & Program Management, Environmental Facilities Corporation, 625 Broadway, Albany, NY 12207-2997, (518) 402-6924, fax: (518) 402-6954





# MISCELLANEOUS NOTICES/HEARINGS

## Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311  
or visit our web site at:  
[www.osc.state.ny.us](http://www.osc.state.ny.us)

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

## PUBLIC NOTICE

### Monroe County Water Authority

The Monroe County Water Authority is requesting proposals from qualified accounting firms relating to audit services for a 457 deferred compensation plan for employees of The Monroe County Water Authority meeting the requirements of Section 457 of the Internal Revenue Code and Section 5 of the State Finance Law, including all rules and regulations issued pursuant thereto.

*A copy of the proposal may be obtained from:* Amy A. Molinari, e-mail: [amy.molinari@mcwa.com](mailto:amy.molinari@mcwa.com)

Mail: Monroe County Water Authority, Attn: Amy A. Molinari, 475 Norris Dr., Rochester, NY 14610, (585) 442-2001, ext. 240, web: [www.mcwa.com](http://www.mcwa.com)

All proposals must be submitted no later than 12:00 p.m. on Wednesday, February 3, 2021.

## PUBLIC NOTICE

### Oneida-Herkimer Solid Waste Authority Draft Request For Proposals (RFP) Transportation of Solid Waste to the Oneida-Herkimer Landfill for Oneida-Herkimer Solid Waste Management Authority

Pursuant to New York State General Municipal Law, Section 120-w, the Oneida-Herkimer Solid Waste Authority hereby gives notice of the following:

The Oneida-Herkimer Solid Waste Authority (OHSWA) desires to procure an agreement for 5 years beginning 10/24/2021 for transportation of non-recyclable waste from 2 transfer stations to the Oneida-Herkimer Landfill, Ava, NY. Comments on the Draft RFP must be received by 1:00 p.m. on 3/8/2021.

The Authority does not discriminate because of race, creed, color, national origin, sex, age, disability or marital status. All qualified respondents will be afforded equal opportunities without

discrimination. Furthermore, the Authority invites certified Minority and Women-Owned Business Enterprises (M/WBE) participation in this RFP. Firms that are not M/WBEs responding to this RFP are strongly encouraged to consider partnering, or creating other similar joint venture arrangements with certified M/WBEs and to give M/WBEs the opportunity to participate in responding to this RFP. The directory of New York State M/WBE's can be viewed at: <http://www.esd.ny.gov/mwbe.html>

*Copies of the Draft RFP may be obtained at [www.ohswa.org](http://www.ohswa.org) or through the contact:* James V. Biamonte, Contracting Officer, 1600 Genesee St., Utica, NY 13502

## PUBLIC NOTICE

Department of State  
F-2018-1192

Date of Issuance – January 6, 2021

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act (CZMA) of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP).

In F-2018-1192, South Fork Wind, LLC (or Applicant) is proposing to install, operate and maintain, and decommission the South Fork Wind Farm Project (proposed activity). The stated purpose of the proposed activity is to generate electricity from an offshore wind farm located in the Lease Area and to transmit it to the East Hampton Substation, located in the Town of East Hampton, Suffolk County, New York.

The Applicant is proposing an approximately 130-megawatt offshore wind energy facility located in the Atlantic Ocean within federal waters on the outer continental shelf. The wind energy facility would develop the Bureau of Ocean Energy Management (BOEM) Renewable Energy Lease Area OCS-A 0517 (formerly part of OCS-A 0486) that is located approximately 35 miles east of Montauk Point, New York. The proposed activity consists of:

- Up to 15 wind turbine generators with a nameplate capacity of 6 to 12 MW per turbine;
- Interarray submarine electric cables connecting the turbines;
- One offshore substation;
- One alternating current (AC) electric export cable buried in the seabed and underground; and
- A new interconnection facility adjacent to the East Hampton Substation where the export cable would interconnect with the Long Island Power Authority electric transmission and distribution system in the Town of East Hampton.

The proposed activity also includes a new Operations and Maintenance (O&M) facility that may be located in Montauk, New York or at Quonset Point in North Kingstown, Rhode Island. The O&M facility will be used to prepare and mobilize for offshore maintenance activities, monitor the wind farm, and/or access storage space for spare parts and other equipment to support maintenance activities. If the

O&M facility is located in Montauk, it would be sited at the Inlet Seafood, LLC property off of East Lake Drive immediately east of the inlet that connects Lake Montauk to Block Island Sound and the Atlantic Ocean. An approximately 0.9-acre area of Lake Montauk would be dredged to a depth of -12 feet mean lower low water with an additional one foot of allowed overdredge. The initial dredging activity would yield approximately 9,630 cubic yards, with annual maintenance dredging of approximately 2,748 cubic yards to maintain that depth. A dredged material disposal location has not been specified. Other potential in-water work may include replacing approximately 200 linear feet of bulkhead and installing new piles to support fixed and floating docks and to create mooring dolphins (number and configuration have not been specified). The facility may also include constructing a new office space (up to 1,000 square feet), equipment storage space (up to 6,600 square feet), a stationary crane for equipment transfer, up to three (3) vessel berths for the crew transfer vessels, as well as accommodations for parking spaces, additional containers for equipment storage, and minor surface improvements.

The proposed activity includes project components in federal waters, in New York State waters, and on uplands of New York State. The consistency review pertains to aspects of the proposed activity with reasonably foreseeable effects on New York's coastal uses and resources. The proposed activity may be located within or has the potential to affect the following Special Management or Regulated Area(s):

- Town of East Hampton Local Waterfront Revitalization Program: [https://docs.dos.ny.gov/opd-lwrp/LWRP/East%20Hampton\\_T/Index.html](https://docs.dos.ny.gov/opd-lwrp/LWRP/East%20Hampton_T/Index.html);
- Significant Coastal Fish and Wildlife Habitat Areas of Hither Hills Uplands, Napeague Harbor, and Napeague Beach: <https://www.dos.ny.gov/opd/programs/consistency/scfwhabitats.html>;
- East Hampton Scenic Areas of Statewide Significance: [https://www.dos.ny.gov/opd/programs/pdfs/SASS\\_Report20081229\\_All.pdf](https://www.dos.ny.gov/opd/programs/pdfs/SASS_Report20081229_All.pdf); and
- Coastal Erosion Hazard Area (CEHA): Natural Protective Feature Areas.

The applicant's consistency certification and accompanying public information and data are included in the Construction and Operations Plan, which is available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York. The project description, consistency certification, and coastal policy analysis are available for review at: [http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2018-1192\\_SFWFforPN.pdf](http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2018-1192_SFWFforPN.pdf)

The applicant's complete Construction and Operations Plan is available on BOEM's website at: <https://www.boem.gov/South-Fork/>. The proposed activity is also the subject of an on-going coordinated Environmental Review, with BOEM acting as the lead federal agency. On October 18, 2018, BOEM published a Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS) based on the applicant's Construction and Operation Plan pursuant to the National Environmental Policy Act (NEPA). BOEM's DEIS is anticipated to be published in early January 2021.

A portion of the proposed activity is the subject of a separate review by the New York State Public Service Commission (PSC) for an Article VII Certificate of Environmental Compatibility and Public Need, namely approximately 3.5 miles of submarine export cable from the New York State territorial waters boundary to the south shore of the Town of East Hampton and approximately 4.1 miles of terrestrial export cable from the south shore of the Town of East Hampton to the proposed interconnection facility (see Case 18-T-0604).

Any interested parties and/or agencies desiring to express their views concerning the proposed activity may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice or February 5, 2021.

*Comments should reference the DOS File F-2018-1192 and be addressed to:* Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231. Electronic submissions can be made by email at CR@dos.ny.gov, with the subject line: F-2018-1192.

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State

F-2020-0734

Date of Issuance – January 6, 2021

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2020-0734, Roger Warren proposes to excavate stone along riverbank to create 20 -foot by 30-foot flat area for jet ski ramps.

Town of Lisbon, St. Lawrence County, St. Lawrence River

\* \* \*

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0734ConsistencyCert.pdf>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or January 21, 2021.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State

F-2020-0765

Date of Issuance – January 6, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2020-0765, the applicant, Paul Oleson, is proposing to install approximately 100 cubic yards of riprap along 62 feet of shoreline and remove an existing dock to be replaced with a 30'x23' dock along the shoreline, and building a structure for storage on top of the new dock. This proposal is located at 201 Main Street, Village of Youngstown, Niagara County, Niagara River.

The applicants' consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0765.pdf>

The proposed activity would be located within or has the potential to affect the following Special Management or Regulated Area(s):

- Village of Youngstown Local Waterfront Revitalization Program: [https://docs.dos.ny.gov/opd-lwrp/LWRP/Youngstown\\_V/Index.html](https://docs.dos.ny.gov/opd-lwrp/LWRP/Youngstown_V/Index.html)

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice or February 5, 2021.

*Comments should be addressed to:* Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State  
F-2020-0845

Date of Issuance – January 6, 2021

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2020-0845, The City of Rochester proposes the excavation of a hand-carry boat launch on the upland side of the existing river wall. Removal of a 70 ft. section of the river wall initially to elevation 509.6 and finished to elevation 510.6 which is two ft. below the normal river pool elevation of 512.6 to provide direct access to the river. Construction of a ramp into the basin and base grade for hand-carry boat/canoe launching.

City of Rochester, Monroe County, Genesee River

\* \* \*

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0845ConsistencyCert.pdf>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or January 21, 2021.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State  
F-2020-0846

Date of Issuance – January 6, 2021

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2020-0846, John Cannarelli proposes to construct an elevated fixed catwalk and seasonal float dock for access to water-related recreational activities. Applicant also proposes to place approximately 100 cy of material (natural sand) resulting from dwelling foundation

excavation landward of tidal wetlands. Proposed structure to consist of 4' x 17' ramp connecting to 4' x 75' elevated fixed catwalk (Revised plans). Catwalk to be elevated a minimum 18" above grade. Float dock (6' x 20') and aluminum ramp (3' x 12') are to be removed seasonally. Two (2) float piles are also proposed. Catwalk to be constructed using open-grate decking to minimize shading impacts. A fence and gate along the property outside of the tidal wetland and a natural buffer are also being proposed.

Town of Brookhaven, Suffolk County, Old Neck Creek

\* \* \*

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0846ConsistencyCert.pdf>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or January 21, 2021.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State  
F-2020-0902

Date of Issuance – January 6, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2020-0902, Patrick Berrigan, is proposing to construct a ~24'x16' over the water pile supported platform to which two 4'x24' pile supported floating seasonal docks would be connected in a "T" configuration. The project is proposed for 20 Tuscarora Street (Rivers Edge Condominium) in the Village of Lewiston, Niagara County on the Lower Niagara River.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0902ForPN.pdf>

Copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or, February 5, 2021.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.



## PUBLIC NOTICE

Department of State  
F-2020-0955 through F-2020-0960  
Date of Issuance – January 6, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2020-0955, F-2020-0956, F-2020-0957, F-2020-0958, F-2020-0959, and F-2020-0960, the consultant, Tim Sommer at First Coastal Corp., is proposing to construct a 370-foot-long living shoreline along six contiguous properties. The shoreline design would contain four parts: an emergent rock sill consisting of 155 cubic yards of stone approximately 30 linear feet seaward of Mean High Water; marsh restoration using approximately 932 cubic yards of clean sand placed above emergent rock sill; a rock-core dune of 177 cubic yards of toe stone and fill stone placed below the plane of Spring High Water; and 636 cubic yards clean sand and planted beach grass on the rock-core dune to act as dune restoration. This project is located at 612, 614, 618, 620, 622, and 624 Dune Road, Town of Southampton, Suffolk County, Moriches Bay.

The applicants' consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0955.pdf>

<http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0956.pdf>

<http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0957.pdf>

<http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0958.pdf>

<http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0959.pdf>

<http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0960.pdf>

The proposed activity would be located within or has the potential to affect the following Special Management or Regulated Area(s):

- Moriches Bay Significant Coastal Fish and Wildlife Habitats: [https://www.dos.ny.gov/opd/programs/consistency/Habitats/LongIsland/Moriches\\_Bay.pdf](https://www.dos.ny.gov/opd/programs/consistency/Habitats/LongIsland/Moriches_Bay.pdf)

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice or February 5, 2021.

*Comments should be addressed to:* Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. Electronic submissions can be made by email at: [CR@dos.ny.gov](mailto:CR@dos.ny.gov)

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State  
F-2020-1107 (DA)  
Date of Issuance – January 6, 2021

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The NOAA's National Marine Fisheries Service (NMFS) has determined that the proposed activity will be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of the New York State Coastal Management Program. The applicant's consistency determination and accompanying supporting information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue in Albany, New York.

Pursuant to the action requested by the South Atlantic Fishery Management Council (Council), NMFS would promulgate a new rule to implement Amendment 12 to the Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic (Dolphin Wahoo Amendment 12). Dolphin Wahoo Amendment 12 would add bullet mackerel and frigate mackerel to the Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic and designate them as ecosystem component (EC) species. The Council noted that the two mackerel species have been documented as important forage species particularly for wahoo and to a lesser extent for dolphin. The purpose of Dolphin Wahoo Amendment 12 is to acknowledge the ecological role of bullet mackerel and frigate mackerel as forage fish and achieve ecosystem management objectives. NMFS and the Council determined that bullet mackerel and frigate mackerel are currently not in need of conservation and management, making them eligible for consideration as EC species under provisions found within the National Standard Guidelines and complying with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-1107Amendment12.pdf>

Any interested parties and/or agencies desiring to express their views concerning the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or January 21, 2021.

*Comments should be addressed to:* Department of State, Office of Coastal, Local Government and Community Sustainability, One Commerce Plaza, 99 Washington Ave., Suite, 1010, Albany, NY 12231, (518) 474-6000, Fax (518) 474-6572.

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State  
F-2020-1128  
Date of Issuance – January 6, 2021

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2020-1128, The Shore & Country Club, is proposing to perform maintenance dredging at the existing facility in Charles Creek, Norwalk Harbor, Norwalk, Connecticut, with subsequent confined open-water placement of up to 14, 970 cubic yards of dredged material at the Central Long Island Sound Disposal Site (CLDS). The CLDS is located within Long Island Sound, south of South End Point, East Haven, Connecticut and north of the Village of Shoreham, Town of Brookhaven, Suffolk County. The site boundary is a 2.4 square nautical mile rectangle centered at 41° 08.95' N and 72° 52.95' W (NAD 83).

Original copies of the public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York. Electronic copies of the applicant's consistency certification and supporting information are available for review and download at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-1128S&CCConsistencyCert>

Any interested parties and/or agencies desiring to express their



views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15/30 days from the date of publication of this notice, or, by Friday, February 5, 2021.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State

F-2020-1129

Date of Issuance – January 6, 2021

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2020-1129, Mr. Robert Staab, is proposing to perform maintenance dredging around an existing recreational dock in the Connecticut River, Old Lyme, Connecticut, with subsequent un-confined open-water placement of up to 1,200 cubic yards of dredged material at the Eastern Long Island Sound Disposal Site (ELDS). The ELDS is located in Long Island Sound, west of Fishers Island, Town of Southold, Suffolk County, New York. The site boundary is approximately a 1.3 square nautical mile rectangular shape with a center point located at: 41.27184 N; -72.10375 W.

Original copies of the public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York. Electronic copies of the submission are available for viewing or download at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-1129StaabConsistencyCert>

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or, by Friday, February 5, 2021.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State

Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2020-0539: In the matter of Ray Mueller, 73 W. Monrow Street, Chicago, IL, 60603, for a variance concerning, fire rated corridors. Involved is a building located at 69 State Street, City of Albany, County of Albany, State of New York.

## PUBLIC NOTICE

Department of State

Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2020-0561: In the matter of Architectural Resources, Doug Scheu, 505 Franklin Street, Buffalo, NY 14202, for a variance concerning safety requirements, including emergency signal requirements. Involved is a building located at 1156 Cook Street, Town of Dannemora, County of Clinton, State of New York.

2020-0573: In the matter of SWBR Architecture, Steven V. Rebholz, 387 E. Main Street, Rochester, NY 14604, for a variance including building area requirements. Involved is an existing building located at 33 Letchworth Street, City of Auburn, County of Cayuga, State of New York.

2020-0398: In the matter of CS ARCH, Matthew Heiser, 40 Beaver Street, Albany, NY 12207, for a variance concerning safety requirements, including building area requirements. Involved is an existing building located at 33 Market Street, Village of Keene Valley, County of Essex, State of New York.

## PUBLIC NOTICE

Department of State

Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2020-0585: In the matter of Darin Melberger, Jacobs Engineering, 500 7th Avenue, 17th Floor, New York, NY 10018 requesting a variance concerning fire safety and building code requirements, to Cargill Cayuga Mine located at 191 Portland Point Road, Town of Lansing, Tompkins County, State of New York.

## PUBLIC NOTICE

Susquehanna River Basin Commission

Actions Taken at December 11, 2020 Meeting

**SUMMARY:** As part of its regular business meeting held on December 11, 2020, from Harrisburg, Pennsylvania, the Commission approved the applications of certain water resources projects, and took additional actions, as set forth in the Supplementary Information below.

**DATES:** December 11, 2020.

**ADDRESSES:** Susquehanna River Basin Commission, 4423 N. Front Street, Harrisburg, PA 17110-1788.

**FOR FURTHER INFORMATION CONTACT:** Jason E. Oyler, General Counsel and Secretary, telephone: (717) 238-0423, ext. 1312, fax: (717) 238-2436; e-mail: [joyler@srbc.net](mailto:joyler@srbc.net). Regular mail inquiries may be sent to the above address. See also Commission website at [www.srbc.net](http://www.srbc.net).

**SUPPLEMENTARY INFORMATION:** In addition to the actions taken on projects identified in the summary above and the listings below, the following items were also presented or acted upon at the business meeting: (1) tabled action on a policy to incentivize the use of impaired waters; (2) adoption of an updated regulatory program fee

schedule; (3) adoption of a general permit for groundwater remediation projects; (4) ratification/approval of contracts/grants; (5) a report on delegated settlements; and (6) Regulatory Program projects.

The Commission is also making its draft Comprehensive Plan available for public comment. The draft plan can be obtained by visiting the Commission's website, <https://www.srbc.net/our-work/programs/planning-operations/comprehensive-plan.html>, or by contacting Paula Ballaron, Manager of Policy Implementation and Outreach. The Commission will hold a public hearing on the Comprehensive Plan on February 4, 2021 via telephone. The Commission will also host two webinars on January 25 and 27, 2021. Written public comments may be sent to John Balay, Manager of Planning & Operations. The deadline for written public comments is February 19, 2021.

#### Project Applications Approved:

1. Project Sponsor and Facility: Cabot Oil & Gas Corporation (Susquehanna River), Susquehanna Depot Borough, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 1.500 mgd (peak day) (Docket No. 20161202).

2. Project Sponsor and Facility: Chesapeake Appalachia, L.L.C. (Towanda Creek), Monroe Borough and Monroe Township, Bradford County, Pa. Application for surface water withdrawal of up to 1.500 mgd (peak day).

3. Project Sponsor and Facility: Denver Borough, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.120 mgd (30-day average) from Well 4 (Docket No. 19960102).

4. Project Sponsor and Facility: Elmira Water Board, City of Elmira, Chemung County, N.Y. Applications for renewal of groundwater withdrawals (30-day averages) of up to 0.958 mgd from Well PW-40, 1.656 mgd from Well PW-41, and 0.389 mgd from Well PW-42, for a total wellfield limit of 3.000 mgd (Docket No. 19901105).

5. Project Sponsor: Goodyear Lake Hydro, LLC. Project Facility: Colliersville Hydroelectric Project, Town of Milford, Otsego County, N.Y. Application for an existing hydroelectric facility.

6. Project Sponsor: Borough of Middletown. Project Facility: SUEZ/Middletown Water System, Middletown Borough, Dauphin County, Pa. Application for renewal of groundwater withdrawal of up to 0.219 mgd (30-day average) from Well 5 (Docket No. 19890701), as well as recognizing historic withdrawals from Wells 1, 2, 3, and 4.

7. Project Sponsor and Facility: Seneca Resources Company, LLC (Cowanesque River), Deerfield Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20161218-2).

#### Project Scheduled for Action Involving a Diversion:

8. Project Sponsor: JKLM Energy, LLC. Project Facility: Goodwin and Son's Sand and Gravel Quarry, Roulette Township, Potter County, Pa. Application for renewal of an into-basin diversion from the Ohio River Basin of up to 1.100 mgd (peak day) from the Goodwin and Son's Sand and Gravel Quarry (Docket No. 20161221).

#### Commission Initiated Project Approval Modifications

9. Project Sponsor: Lycoming County Recreation Authority. Project Facility: White Deer Golf Courses, Brady Township, Lycoming County, Pa. Conforming the grandfathered amount with the forthcoming determination for a groundwater withdrawal of up to 0.169 mgd (30-day average) from Well 2 (Docket No. 20020806).

#### Project Applications Tabled

10. Project Sponsor and Facility: Hastings Municipal Authority, Elder Township, Cambria County, Pa. Application for groundwater withdrawal of up to 0.260 mgd (30-day average) from Mine Spring No. 1 Well.

11. Project Sponsor: New York State Office of Parks, Recreation and Historic Preservation. Project Facility: Indian Hills State Golf Course (Irrigation Pond), Towns of Erwin and Lindley, Steuben County, N.Y. Applications for an existing surface water withdrawal of up to 0.940 mgd (peak day) and consumptive use of up to 0.850 mgd (peak day).

AUTHORITY: Pub.L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: December 15, 2020

Jason E. Oyler

General Counsel and Secretary to the Commission

## PUBLIC NOTICE

### Susquehanna River Basin Commission

#### Grandfathering (GF) Registration Notice

SUMMARY: This notice lists Grandfathering Registration for projects by the Susquehanna River Basin Commission during the period set forth in DATES.

DATES: November 1-30, 2020.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; e-mail: [joyler@srbc.net](mailto:joyler@srbc.net). Regular mail inquiries May be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists GF Registration for projects, described below, pursuant to 18 CFR 806, Subpart E for the time period specified above:

#### Grandfathering Registration Under 18 CFR part 806, Subpart E:

1. Shippensburg University, GF Certificate No. GF-202011127, Shippensburg Township, Cumberland County, Pa.; Wells 1, 2, 3, and 5; Issue Date: November 4, 2020.

2. West Earl Water Authority – Public Water Supply System, GF Certificate No. GF-202011128, West Earl Township, Lancaster County, Pa.; Nolt Well; Issue Date: November 4, 2020.

3. Biglerville Borough Authority – Biglerville Borough Water Company, GF Certificate No. GF-202011129, Biglerville Borough and Butler Township, Adams County, Pa.; Wells 5 and 6; Issue Date: November 5, 2020.

4. Greenfield Township Municipal Authority – Public Water Supply System, GF Certificate No. GF-202011130, Greenfield Township, Blair County, Pa.; Wells 1 and 3; Issue Date: November 5, 2020.

5. City of Cortland – Cortland Water Department, GF Certificate No. GF-202011131, City of Cortland, Cortland County, N.Y.; Wells 3, 4, and 5; Issue Date: November 5, 2020.

6. New Freedom Borough – New Freedom Borough Water, GF Certificate No. GF-202011132, New Freedom Borough, York County, Pa.; Wells 1, 3, 4, and 8; Issue Date: November 5, 2020.

7. Clinton County Recreation Authority – Belles Springs Golf Course, GF Certificate No. GF 202011133, Lamar Township, Clinton County, Pa.; Spring Fed Pond; Issue Date: November 24, 2020.

8. Village of McGraw – Public Water Supply System, GF Certificate No. GF-202011134, Village of McGraw, Cortland County, N.Y.; Academy St. Well 1 (original) and Academy St. Well 1 (replacement); Issue Date: November 24, 2020.

9. Conagra Brands – Milton, Pa., GF Certificate No. GF-202011135, Milton Borough, Northumberland County, Pa.; Wells 1 and 2 and consumptive use; Issue Date: November 24, 2020.

Authority: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR parts 806 and 808.

Dated: December 15, 2020

Jason E. Oyler, General Counsel and Secretary to the Commission.

## PUBLIC NOTICE

### Susquehanna River Basin Commission

#### Projects Approved for Consumptive Uses of Water

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in "DATES."

DATES: October 1-31, 2020

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717)

238-0423, ext. 1312; fax: (717) 238-2436; e-mail: joyler@srbc.net. Regular mail inquiries may be sent to the above address.

**SUPPLEMENTARY INFORMATION:** This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR § 806.22(e) and 18 CFR § 806.22(f) for the time period specified above:

Water Source Approval – Issued Under 18 CFR 806.22(f):

1. Seneca Resources Company, LLC; Pad ID: Barbine 292; ABR-20100614.R2; Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 1, 2020.

2. Repsol Oil & Gas USA, LLC; Pad ID: SHEDDEN (01 075) L; ABR-201007004.R2; Granville Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: October 1, 2020.

3. LPR Energy, LLC; Pad ID: Lightner East Drilling Pad #1; ABR-201009087.R2; Juniata Township, Blair County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: October 2, 2020.

4. Seneca Resources, LLC; Pad ID: Covington Pad L; ABR-201008065.R2; Covington Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 14, 2020.

5. Seneca Resources, LLC; Pad ID: COP Pad C; ABR-201008027.R2; Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: October 14, 2020.

6. Seneca Resources, LLC; Pad ID: Doan 893; ABR-20100670.R2; Deerfield Township, Tioga County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: October 14, 2020.

7. Seneca Resources, LLC; Pad ID: Anthony 564; ABR-201006111.R2; Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: October 14, 2020.

8. Seneca Resources, LLC; Pad ID: Hauswirth 516; ABR-20100688.R2; Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 14, 2020.

9. Seneca Resources, LLC; Pad ID: Matz 824; ABR-201007010.R2; Chatham Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 14, 2020.

10. Seneca Resources, LLC; Pad ID: Frost 573; ABR-201007013.R2; Covington Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 14, 2020.

11. Seneca Resources, LLC; Pad ID: Sorensen 876; ABR-201007021.R2; Osceola Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 14, 2020.

12. Chesapeake Appalachia, L.L.C.; Pad ID: Hopson; ABR-201010004.R2; Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.50000 mgd; Approval Date: October 14, 2020.

13. Chesapeake Appalachia, L.L.C.; Pad ID: Yvonne; ABR-201010015.R2; Rush Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.50000 mgd; Approval Date: October 14, 2020.

14. Diversified Production, LLC; Pad ID: Phoenix E; ABR-201008130.R2; Duncan Township, Tioga County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: October 14, 2020.

15. Chief Oil & Gas, LLC; Pad ID: Warburton North Drilling Pad; ABR-201510003.R1; Forks Township, Sullivan County, Pa.; Consumptive Use of Up to 2.5000 mgd; Approval Date: October 14, 2020.

16. Cabot Oil & Gas Corporation; Pad ID: ArnoneJ P1; ABR-201507004.R1; Brooklyn Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: October 14, 2020.

17. Cabot Oil & Gas Corporation; Pad ID: BistisM P1; ABR-201507005.R1; Lathrop Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: October 14, 2020.

18. Eclipse Resources-PA, LP; Pad ID: Abplanalp; ABR-201510001.R1; Westfield Township, Tioga County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: October 14, 2020.

19. Eclipse Resources-PA, LP; Pad ID: Painter; ABR-201510002.R1; Westfield Township, Tioga County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: October 14, 2020.

20. SWN Production Company, LLC; Pad ID: Ball; ABR-201007060.R2; Stevens Township, Bradford County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: October 28, 2020.

21. Repsol Oil & Gas USA, LLC; Pad ID: FEUSNER (03 044) J; ABR-201007094.R2; Columbia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: October 28, 2020.

22. Repsol Oil & Gas USA, LLC; Pad ID: WARNER VALLEY FARM LLC (05 002); ABR-201007130.R2; Pike Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: October 28, 2020.

23. Repsol Oil & Gas USA, LLC; Pad ID: WATSON (03 051) B; ABR-201007084.R2; Columbia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: October 28, 2020.

24. Cabot Oil & Gas Corporation; Pad ID: LambertR P1; ABR-201507006.R1; Gibson Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: October 28, 2020.

25. Cabot Oil & Gas Corporation; Pad ID: AdamsJ P1; ABR-201007121.R2; Harford Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: October 28, 2020.

26. Cabot Oil & Gas Corporation; Pad ID: DavisG P1; ABR-201007120.R2; Gibson Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: October 28, 2020.

27. Seneca Resources, LLC; Pad ID: Wood 874; ABR-201007069.R2; Deerfield Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 28, 2020.

28. Seneca Resources, LLC; Pad ID: Hamblin 860; ABR-201007117.R2; Middlebury Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 28, 2020.

29. Frontier Natural Resources, Inc.; Pad ID: Winner 4H; ABR-201009094.R2; West Keating Township, Clinton County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 28, 2020.

30. SWN Production Company, LLC; Pad ID: NR-19-Walker Diehl; ABR-201507003.R1; Oakland Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: October 28, 2020.

31. Cabot Oil & Gas Corporation; Pad ID: PlonskiJ P1; Brooklyn Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: October 28, 2020.

32. Seneca Resources Company, LLC; Pad ID: Gee 848V; ABR-201007093.R2; Middlebury Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 28, 2020.

33. ARD Operating, LLC; Pad ID: COP Tr 285 Pad D; ABR-201008013.R2; Chapman Township, Clinton County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 28, 2020.

34. Repsol Oil & Gas USA, LLC; Pad ID: YOUNG (05 080); ABR-201007080.R2; Warren Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: October 30, 2020.

35. EOG Resources, Inc.; Pad ID: KINGSLEY 2H; ABR-20100692.R2; Springfield Township, Bradford County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: October 30, 2020.

36. EOG Resources, Inc.; Pad ID: KINGSLEY 3H; ABR-20100698.R2; Springfield Township, Bradford County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: October 30, 2020.

37. Repsol Oil & Gas USA, LLC; Pad ID: CUMMINGS LUMBER (01 081); ABR-201007088.R2; Troy Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: October 30, 2020.

38. ARD Operating, LLC; Pad ID: COP Tr 356 Pad H; ABR-201008020.R2; Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 30, 2020.

39. ARD Operating, LLC; Pad ID: COP Tr 290 Pad B; ABR-201008029.R2; McHenry Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 30, 2020.

40. ARD Operating, LLC; Pad ID: Brian K. Frymire Pad A; ABR-201008056.R2; Cascade Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 30, 2020.



41. Seneca Resources Company, LLC; Pad ID: Clark 392; ABR-201008004.R2; Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 30, 2020.

42. Seneca Resources Company, LLC; Pad ID: Fish 301; ABR-201008034.R2; Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 30, 2020.

43. EXCO Resources (PA), LLC; Pad ID: COP Tract 706 (Pad B); ABR-201008059.R2; Burnside Township, Centre County, Pa.; Consumptive Use of Up to 8.0000 mgd; Approval Date: October 30, 2020.

44. Chief Oil & Gas, LLC; Pad ID: SGL-12 L SOUTH UNIT PAD; ABR-202010001; Leroy Township, Bradford County, Pa.; Consumptive Use of Up to 2.5000 mgd; Approval Date: October 30, 2020.

Approval By Rule – Revoked Under 18 CFR 806.22(f):

1. Seneca Resources Company, LLC, Pad ID: Wolfinger Pad A, ABR-201008064.R1; City of Saint Mary's, Elk County; and Shippen Township, Cameron County; Pa.; Revocation Date: May 21, 2020.

Authority: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: December 15, 2020

Jason E. Oyler,

General Counsel and Secretary to the Commission.

## PUBLIC NOTICE

### Susquehanna River Basin Commission

#### Projects Approved for Consumptive Uses of Water

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in "DATES."

DATES: November 1-30, 2020

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; e-mail: joyler@srbc.net. Regular mail inquiries May be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR § 806.22(e) and 18 CFR § 806.22(f) for the time period specified above:

Water Source Approval – Issued Under 18 CFR 806.22(f):

1. LPR Energy, LLC; Pad ID: Davis Drilling Pad #1; ABR-201007067.R2; West Clair Township, Bedford County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: November 11, 2020.

2. Pennsylvania General Energy Company, L.L.C.; Pad ID: COP Tract 729 Pad D; ABR-201008052.R2; Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: November 11, 2020.

3. Pennsylvania General Energy Company, L.L.C.; Pad ID: COP Tract 729 Pad C; ABR-201008051.R2; Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: November 11, 2020.

4. Repsol Oil & Gas USA, LLC; Pad ID: ROY (03 062) L; ABR-201008089.R2; Wells Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: November 11, 2020.

5. Rockdale Marcellus, LLC; Pad ID: Swingle 725; ABR-201007129.R2; Canton Township, Bradford County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 11, 2020.

6. Seneca Resources Company, LLC; Pad ID: Bauer 849; ABR-201008032.R2; Middlebury Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 11, 2020.

7. Seneca Resources Company, LLC; Pad ID: Fuleihan 417; ABR-201008073.R2; Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 11, 2020.

8. Repsol Oil & Gas USA, LLC; Pad ID: DETWEILER (02 100) R; ABR-201008023.R2; Covington Township, Tioga County, Pa.;

Consumptive Use of Up to 6.0000 mgd; Approval Date: November 16, 2020.

9. Repsol Oil & Gas USA, LLC; Pad ID: DCNR 594 (02 205); ABR-201008040.R2; Bloss Township, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: November 16, 2020.

10. Repsol Oil & Gas USA, LLC; Pad ID: DCNR 587 (02 019); ABR-201008072.R2; Ward Township, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: November 16, 2020.

11. Seneca Resources Company, LLC; Pad ID: Sticklin 510; ABR-201007113.R2; Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 16, 2020.

12. Epsilon Energy USA, Inc.; Pad ID: Harold Craig Pad; ABR-202011002; Rush Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: November 19, 2020.

13. SWN Production Company, LLC; Pad ID: Chamberlin; ABR-201008008.R2; Stevens Township, Bradford County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: November 19, 2020.

14. ARD Operating, LLC; Pad ID: Nevin L. Smith Pad A; ABR-201008115.R2; Gamble Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 19, 2020.

15. Rockdale Marcellus, LLC; Pad ID: Hedrick 702; ABR-201007092.R2; Union Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 19, 2020.

16. Cabot Oil & Gas Corporation.; Pad ID: WarrinerR P4; ABR-201008123.R2; Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: November 19, 2020.

17. Repsol Oil & Gas USA, LLC; Pad ID: AYERS (05 005) K; ABR-201008129.R2; Orwell Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: November 20, 2020.

18. Repsol Oil & Gas USA, LLC; Pad ID: STROPE (05 026) G; ABR-201008152.R2; Warren Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: November 20, 2020.

19. Repsol Oil & Gas USA, LLC; Pad ID: CARPENTER (03 023) K; ABR-201008141.R2; Columbia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: November 20, 2020.

20. ARD Operating, LLC; Pad ID: Brooks Family Pad A; ABR-201508002.R1; Cascade Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 20, 2020.

21. Cabot Oil & Gas Corporation; Pad ID: StockholmK P2; ABR-201008134.R2; Rush Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: November 20, 2020.oval Date: November 16, 2020.

22. Cabot Oil & Gas Corporation; Pad ID: Maiolini P3; ABR-201008114.R2; Dimock and Auburn Townships, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: November 20, 2020.

23. Cabot Oil & Gas Corporation; Pad ID: Teel P2; ABR-201508004.R1; Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: November 20, 2020.

24. Cabot Oil & Gas Corporation; Pad ID: KingD P1; ABR-201009010.R2; Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: November 20, 2020.

25. Rockdale Marcellus, LLC; Pad ID: Yaggie 704; ABR-201006113.R2; Union Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 24, 2020.

26. Repsol Oil & Gas USA, LLC; Pad ID: Sparrow Hawk; ABR-201009044.R2; Covington Township, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: November 24, 2020.

27. Cabot Oil & Gas Corporation; Pad ID: CosnerW P1; ABR-201009047.R2; Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: November 24, 2020.



28. Greylock Production, LLC; Pad ID: Coldstream Affiliates #1MH; ABR-201007051.R2; Goshen Township, Clearfield County, Pa.; Consumptive Use of Up to 3.0200 mgd; Approval Date: November 25, 2020.

29. Greylock Production, LLC; Pad ID: Whitetail #1-5MH; ABR-201008112.R2; Goshen Township, Clearfield County, Pa.; Consumptive Use of Up to 3.0200 mgd; Approval Date: November 25, 2020.

30. ARD Operating, LLC; Pad ID: COP Tr 685 Pad C; ABR-201009013.R2; Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 25, 2020.

31. BKV Operating, LLC; Pad ID: Baker 2H; ABR-201008137.R2; Forest Lake Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: November 27, 2020.

32. Chesapeake Appalachia, L.L.C.; Pad ID: Tama; ABR-201010057.R2; North Towanda Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: November 27, 2020.

33. Seneca Resources Company, LLC; Pad ID: Hotchkiss 472; ABR-201009045.R2; Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 27, 2020.

34. Chesapeake Appalachia, L.L.C.; Pad ID: Folta; ABR-201010044.R2; Tuscarora Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: November 30, 2020.

35. Cabot Oil & Gas Corporation; Pad ID: FraserE P1; ABR-201009052.R2; Forest Lake Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: November 30, 2020.

36. Seneca Resources Company, LLC; Pad ID: Klettlinger 294; ABR-201009054.R2; Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 30, 2020.

37. Chesapeake Appalachia, L.L.C.; Pad ID: Norton; ABR-201011008.R2; Elkland Township, Sullivan County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: November 30, 2020.

38. Chesapeake Appalachia, L.L.C.; Pad ID: Penecale; ABR-201011060.R2; North Branch Township, Wyoming County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: November 30, 2020.

39. Chesapeake Appalachia, L.L.C.; Pad ID: Taylor; ABR-201011034.R2; Orwell Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: November 30, 2020.

40. Chesapeake Appalachia, L.L.C.; Pad ID: Zaleski; ABR-201011021.R2; Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: November 30, 2020.

Authority: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: December 15, 2020

Jason E. Oyler,

General Counsel and Secretary to the Commission.

described below, pursuant to 18 CFR 806.18 or to Commission Resolution Nos. 2013-11 and 2015-06 for the time period specified above:

Minor Modification Issued Under 18 CFR § 806.18

1. Northeast Marcellus Aqua Midstream I, LLC, Docket No. 20200919, Tunkhannock Township, Wyoming County, Pa.; approval to change intake design to add a temporary intake structure to allow withdrawals during low flow conditions when the existing permanent intake is inoperable; Approval Date: November 12, 2020.

AUTHORITY: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: December 15, 2020.

Jason E. Oyler,

General Counsel and Secretary to the Commission

## PUBLIC NOTICE

### Susquehanna River Basin Commission Projects Approved for Minor Modifications

SUMMARY: This notice lists the minor modifications approved for a previously approved project by the Susquehanna River Basin Commission during the period set forth in "DATES."

DATES: November 1-30, 2020.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; e-mail: joyler@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists previously approved projects, receiving approval of minor modifications,



# EXECUTIVE ORDERS

## **Executive Order No. 202.79: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency.**

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby find that a disaster continues to exist for which affected state agencies and local governments are unable to respond adequately. Therefore, pursuant to the authority vested in me by the Constitution of the State of New York and Section 28 of Article 2-B of the Executive Law, I hereby continue for thirty days the declaration of the State Disaster Emergency effective March 7, 2020, as set forth in Executive Order 202. This Executive order shall remain in effect through January 1, 2021.

IN ADDITION, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, or to provide any directive necessary to respond to the disaster, do hereby continue the suspensions and modifications of law, and any directives not superseded by a subsequent directive, contained in Executive Orders 202 up to and including 202.21, and 202.27, 202.28, 202.29, 202.30, 202.31, 202.38, 202.39, 202.40, 202.41, 202.42, 202.43, 202.48, 202.49, 202.50, 202.51, 202.52, 202.55, 202.55.1, 202.56, 202.60, 202.61, 202.62, 202.63, 202.67, 202.68, as continued and contained in Executive Order 202.72 for another thirty days through January 1, 2021 and hereby temporarily suspend or modify the following from the date of this Executive Order through January 1, 2021:

- Paragraph 7 of subdivision h of section 405.9 of Title 10 of the NYCRR, to the extent necessary to permit general hospitals licensed pursuant to Article 28 of the Public Health Law that are treating patients during the disaster emergency to rapidly transfer, or receive such patients, and to enable inter- or intra-system patient load balancing as may be required by the Commissioner of Health, provided such facilities take all reasonable measures to protect the health and safety of such patients, including safe transfer practices;

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I do hereby issue the following directives through January 1, 2021:

- The directive contained in 202.68 that required the Department of Health to determine areas in the State that require enhanced public health restrictions based on cluster-based cases of COVID is hereby modified to provide that schools located within geographic areas designated by the Department of Health as “red zones” and “orange zones” may conduct in-person instruction during the period of time that

the zone is designated “red” or “orange,” subject to compliance with guidance and directives of the Department of Health.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this second day of December in the year two thousand twenty.

*BY THE GOVERNOR*

/S/ Andrew M. Cuomo

/s/ Melissa DeRosa

*Secretary to the Governor*

## **Executive Order No. 202.80: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency.**

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, or to provide any directive necessary to respond to the disaster, do hereby continue the suspensions and modifications of law, and any directives not superseded by a subsequent directive, contained in Executive Order 202.73 for another thirty days through January 8, 2021.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this ninth day of December in the year two thousand twenty.

*BY THE GOVERNOR*

/S/ Andrew M. Cuomo

/s/ Melissa DeRosa

*Secretary to the Governor*

## **Executive Order No. 202.81: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency.**

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by Section

29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, or to provide any directive necessary to respond to the disaster, do hereby continue the suspensions and modifications of law, and any directives not superseded by a subsequent directive, contained in Executive Orders 202.22 up to and including 202.26, and 202.32, 202.33, 202.34, 202.35, 202.44, 202.45, 202.53, 202.57, 202.64, and 202.69 as continued and contained in Executive Order 202.75, and Executive Order 202.74, for another thirty days through January 10, 2021 and hereby temporarily suspend or modify the following from the date of this Executive Order through January 10, 2021:

- Section 221-a of the Racing, Pari-mutuel Wagering and Breeding Law to the extent necessary to allow the Gaming Commission to establish by emergency order a reduced the standards for jockeys to qualify for health insurance due to race date cancellations as a result of governmental closure orders;
- Sections 2018-a and 2018-b and paragraph s of subdivision 2 of section 1951 of the Education Law to the extent necessary to include the potential for contraction of the virus that causes COVID-19 as an illness for purposes of request or receipt of an absentee ballot;

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby modify and continue the following directives for the period from the date of this Executive Order through January 10, 2021:

- The directive contained in Executive Order 202.48, which modified the directive in Executive Order in 202.28, as continued by Executive Order 202.75 that prohibited the initiation of a proceeding or enforcement of an eviction of any commercial tenant for nonpayment of rent or a foreclosure of any commercial mortgage for nonpayment is hereby continued until January 31, 2021.
- The directive contained in Executive Order 202.30 as continued in Executive Order 202.79 is hereby modified to allow an article 28 general hospital to discharge a patient who has not obtained a negative result to a COVID-19 test, provided that such patient is beyond the infectious period of time as required to be measured by centers for disease control policy, only to a COVID-positive only facility if such facility first certifies that it is able to properly care for such patient.
- The directive contained in Executive Order 202.61 as continued in Executive Order 202.79 is hereby modified to suspend authorization for indoor dining within New York City effective on Monday December 14, 2020.
- The directive contained in Executive Order 202.68 that required the Department of Health to determine areas in the State that require enhanced public health restrictions based on cluster-based cases of COVID-19 is hereby modified to provide that, effective December 14, 2020, gyms and fitness centers or classes located within geographic areas designated by the Department of Health as “orange zones” may continue to operate beginning on December 14, 2020 at 25% capacity subject to strict adherence to Department of Health guidance. Barbers, hair salons, spas, tattoo or piercing parlors, nail technicians and nail salons, cosmetologists, estheticians, the provision of laser hair removal and electrolysis, and all other personal care services located within geographic areas designated by the Department of Health as “orange zones” may operate, effective December 14, 2020, subject to strict adherence to Department of Health guidance, provided that employees performing such services directly on, or to, customers receive diagnostic testing for COVID-19 on a weekly basis for the duration of time that the business remains

within an “orange zone,” and no employee provides any such services at a re-opened business without first obtaining a negative COVID-19 test result within the preceding 7 days of providing such service.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this eleventh day of December in the year two thousand twenty.

BY THE GOVERNOR

/s/ Andrew M. Cuomo

/s/ Melissa DeRosa

Secretary to the Governor

#### **Executive Order No. 202.82: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency.**

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

WHEREAS, the seriousness of the COVID-19 pandemic is compounded by the concurrent presence in the community of influenza;

WHEREAS, paragraph 1 of subdivision 1 of section 206 and subdivision 1 of section 613 of the Public Health Law authorize the New York State Department of Health and local health departments to establish and conduct programs for the voluntary immunization of adults and the immunization of children to prevent or minimize the spread of disease and to protect the public health;

WHEREAS, to combat the further spread of COVID-19, avoid excessive disruptions to the health care system and society in general, and protect the lives, health, safety and welfare of the public, it is necessary to remove or minimize barriers to the voluntary vaccination of as many individuals as possible as quickly as possible against COVID-19 and influenza, by making available the services, personnel, equipment, and facilities necessary to conduct such vaccinations and facilitating the timely and accurate reporting of vaccinations;

WHEREAS, it is therefore necessary to facilitate the timely distribution and administration of COVID-19 and influenza vaccine in various settings throughout the State, and in particular to permit Points of Dispensing (hereinafter “PODs”) or other vaccination sites, as permitted by this Executive Order that are overseen or approved by the New York State Department of Health or local health departments and operated under the medical supervision of licensed physicians, licensed physician assistants, or certified nurse practitioners, to utilize certain individuals or health professionals who are: (1) not currently authorized to administer vaccinations but who are licensed or certified pursuant to specific provisions of the Education Law or the Public Health Law; or (2) enrolled in an educational or training program pursuant to Education Law or Public Health Law, as specified within this Executive Order and who will be evaluated and trained as necessary, to administer COVID-19 and influenza vaccinations, where administration of such vaccines includes patient assessment consistent with the terms of the medical oversight provided at the POD or other vaccination site from a licensed physician, licensed physician assistant, or certified nurse practitioner, and is pursuant to a non-patient specific standing order and applicable guidance issued by the Centers for Disease Control and Prevention, the U.S. Food and Drug Administration, and the New York State Department of Health;

WHEREAS, health professionals licensed or certified under the Education Law or the Public Health Law are authorized to engage in specific scopes of practice, and this Order shall not expand the scopes of practice of these professionals to allow them routinely to administer vaccinations, but rather will allow them to vaccinate only under the extremely limited circumstances described in and for the duration of this Order;

WHEREAS, to ensure that New Yorkers have insurance coverage



for COVID-19 immunizations and the administration thereof, including any visits necessary to obtain the immunization, so that there are no barriers for New Yorkers expeditiously obtaining the immunizations;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, or to provide any directive necessary to respond to the disaster, do hereby temporarily suspend or modify the following from the date of this Executive Order through January 12, 2021:

- Sections 3216(i)(17)(E), 3221(l)(8)(E) and (F), and 4303(j)(3) of the Insurance Law are modified to apply to grandfathered health plans with regard to COVID-19 immunizations;
- The modification in Executive Order 202 of sections 6521 and 6902 of the Education Law insofar as it limits the execution of medical regimens prescribed by a licensed physician or other licensed and legally authorized health care providers to registered nurses licensed pursuant to Article 139 of the Education Law, to the extent necessary to permit non-nursing staff, as permitted by law or Executive Order and upon completion of training deemed adequate by the Commissioner of Health, to: (1) collect throat, nasal, or nasopharyngeal swab specimens, as applicable and appropriate, from individuals suspected of being infected by COVID-19 or influenza, for purposes of testing; (2) collect blood specimens for the diagnosis of acute or past COVID-19 disease; (3) administer vaccinations against influenza or COVID-19 pursuant to the most recent recommendations by the Advisory Committee for Immunization Practices (ACIP) and/or an applicable United States Food and Drug Administration approval or Emergency Use Authorization (EUA), subject to any other conditions set forth in this Order, including but not limited to conditions related to training and supervision, where applicable; and (4) where applicable and to the extent necessary, to perform tasks, under the supervision of a nurse, otherwise limited to the scope of practice of a licensed or registered nurse to provide care for individuals diagnosed or suspected of suffering from a COVID-19 or influenza infection;
- The modification in Executive Order 202.1 of subdivision 4 of section 6909 of the Education Law, subdivision 6 of section 6527 of the Education Law, and section 64.7 of Title 8 of the NYCRR, to the extent necessary to include subdivision 1 of section 6902 of the Education Law, subdivisions 5, and 7 of section 6909 of the Education Law, subdivision 7 of section 6527 of the Education Law, and section 63.9 of Title 8 of the NYCRR, in order to permit licensed physicians and certified nurse practitioners to issue a non-patient specific regimen to nurses, physician assistants, specialist assistants, pharmacists, or any such other persons authorized by law or by this executive order and consistent with guidance as may be issued by the Commissioner to: (1) collect throat, nasal, or nasopharyngeal swab specimens, as applicable and appropriate, from individuals suspected of suffering from a COVID-19 or influenza infection, for purposes of testing; (2) collect blood specimens for the diagnosis of acute or past COVID-19 disease; (3) administer vaccinations against influenza or COVID-19 pursuant to the most recent recommendations by the Advisory Committee for Immunization Practices (ACIP) and/or an applicable United States Food and Drug Administration approval or Emergency Use Authorization (EUA), subject to any other conditions set forth in this Order, including but not limited to conditions related to training and supervision, where applicable; or (4) where applicable and to the extent necessary, to perform tasks, under the supervision of a nurse, otherwise limited to the scope of practice of a licensed or registered nurse to provide care for individuals diagnosed or suspected of suffering from a COVID-19 or influenza infection;
- Subdivision 6 of section 6527, subdivisions 4 and 5 of section 6909 of the Education Law, and section 64.7 of Title 8 of the NYCRR, to the extent necessary to permit non-patient specific regimens to be prescribed, ordered to, and executed by registered professional nurses for the administration of COVID-19 vaccine;
- Section 6902 of the Education Law insofar as is necessary to permit non-patient specific regimens for the administration of COVID or influenza vaccination to be prescribed, ordered to, and executed by licensed practical nurses, so that for the purposes of this Order only such licensed practical nurses may administer COVID and influenza vaccinations at Points of Dispensing (POD) sites overseen or approved by the New York State Department of Health or local health departments and operated under the medical supervision of licensed physicians, licensed physician assistants, or certified nurse practitioners, provided such licensed practical nurses must first receive training in: (1) techniques, indications, precautions, contraindications, infection control practices; (2) use of personal protective equipment sufficient to provide the basic level of competence for such tasks; and (3) a current certificate in basic cardiopulmonary resuscitation, which at a minimum must include a certification in basic cardiopulmonary resuscitation by an online program that has received accreditation from the American Nurses Credentialing Center, the Accreditation Council for Pharmacy Education (ACPE), or the Accreditation Council for Continuing Medical Education;
- Chapter 110 of the Laws of 2020 to the extent necessary, and subject to the certification by the Commissioner of Health and Commissioner of Education, to permit licensed pharmacists to administer COVID-19 vaccine less than 90 days after approval of such vaccine by the United States Food and Drug Administration's Center for Biologics Evaluation and Research;
- Subdivisions 2 and 3 of section 6801 of the Education Law as well as section 63.9 of Title 8 of the NYCRR, to the extent necessary to permit patient specific orders or non-patient specific regimens for the administration of COVID vaccination to be prescribed, ordered to, and executed by licensed pharmacists certified to administer immunizations by the State Education Department as well as newly licensed pharmacist, as specified and permitted by this Executive Order;
- Subdivisions 2 and 3 of section 6801, subdivision 7 of section 6527, subdivision 7 of Section 6909, subdivision 22 of section 6802, and subdivision 1 of section 6828 of the Education Law, as well as section 63.9 of Title 8 of the NYCRR, to the extent necessary to permit non-patient specific regimens for the administration of COVID or influenza vaccination to be prescribed, ordered to, and executed by licensed pharmacists not certified to administer immunizations by the State Education Department, so that for the purposes of this Order only such pharmacists may administer COVID and influenza vaccinations at Points of Dispensing (POD) sites overseen or approved by the New York State Department of Health or local health departments and operated under the medical supervision of licensed physicians, licensed physician assistants, or certified nurse practitioners, provided such pharmacists must first receive training in: (1) techniques, indications, precautions, contraindications, infection control practices; (2) use of personal protective equipment sufficient to provide the basic level of competence for such tasks; and (3) a current certificate in basic cardiopulmonary resuscitation, which at a minimum must include a certification in basic cardiopulmonary resuscitation by an online program that has received accreditation from the American Nurses Credentialing Center, the Accreditation Council for Pharmacy Education;

tion (ACPE), or the Accreditation Council for Continuing Medical Education;

- Subdivision 2 of section 6801 and subdivision 22 of section 6802 of the Education Law, as well as section 63.9 of Title 8 of the NYCRR, to the extent necessary to permit licensed physicians and certified nurse practitioners, located in any county within New York State, to issue a patient specific prescription or a non-patient specific regimen for COVID-19 and influenza vaccination to a pharmacist who is certified to administer vaccinations as well as to newly licensed pharmacists, as specified and permitted by this Executive Order unless administering COVID-19 or influenza vaccinations at a POD site;
- Subdivisions 2 and 3 of section 6801, subdivision 7 of section 6527, subdivision 7 of Section 6909, subdivision 22 of section 6802, and subdivision 1 of section 6828 of the Education Law, as well as section 63.9 of Title 8 of the NYCRR to the extent necessary to permit newly licensed pharmacists, previously issued a limited permit with certification to administer immunizations pursuant to section 6806 of the Education Law as well as section 63.4 of Title 8 of the NYCRR, to continue to provide such immunizations in New York State for ninety days immediately following licensure and registration in New York State and pending certification of administration for which an application has been filed with the Department of Education;
- Section 6951 of the Education Law, and section 79-5.5 of Title 8 of NYCRR, insofar as such provisions limit the practice of midwifery to management of normal pregnancies, child birth and postpartum care as well as primary preventive reproductive health care of essentially healthy women, and newborn evaluation, resuscitation and referral for infants, and insofar as it limits the practice of midwifery to midwives who practice in accordance with collaborative relationships with licensed physicians or hospitals, so that for the purposes of this Executive Order only, midwives may administer vaccinations against influenza and COVID-19 to any patient pursuant to a non-patient specific order at Points of Dispensing (POD) sites overseen or approved by the New York State Department of Health or local health departments, and operated under the medical supervision of licensed physicians, licensed physician assistants, or certified nurse practitioners. Provided, however, that a midwife without a certificate issued by the State Education Department for administering immunizing agents, must first receive training in the following areas, as determined by the Commissioner of Health after consultation with the Commissioner of Education: (1) techniques, indications, precautions, contraindications, infection control practices; (2) use of personal protective equipment sufficient to provide the basic level of competence for such tasks; and (3) a current certificate in basic cardiopulmonary resuscitation, which at a minimum must include a certification in basic cardiopulmonary resuscitation by an online program that has received accreditation from the American Nurses Credentialing Center, the Accreditation Council for Pharmacy Education (ACPE), or the Accreditation Council for Continuing Medical Education;
- Section 6601 of the Education Law insofar as it limits the practice of dentistry to the treatment of the mouth and adjacent tissue, to the exclusion of any other part of the human body, so that, for the purposes of this Executive Order only, dentists may administer vaccinations against influenza and COVID-19 pursuant to a non-patient specific order at Points of Dispensing (POD) sites overseen or approved by the New York State Department of Health or local health departments and operated under the medical supervision of licensed physicians, licensed physician assistants, or certified nurse practitioners, provided such dentists first receive training in the following areas, as determined by the Commissioner of Health after consultation with the Commissioner of Education: (1) techniques, indications, precautions, contrain-

dications, infection control practices; (2) use of personal protective equipment sufficient to provide the basic level of competence for such tasks; and (3) a current certificate in basic cardiopulmonary resuscitation, which at a minimum must include a certification in basic cardiopulmonary resuscitation by an online program that has received accreditation from the American Nurses Credentialing Center, the Accreditation Council for Pharmacy Education (ACPE), or the Accreditation Council for Continuing Medical Education;

- Subdivision 1 of section 6606 of the Education Law and section 61.9 of Title 8 of the NYCRR insofar as they restrict the practice of dental hygiene to the performance of dental services and require that the practice of dental hygiene be conducted in the office of any licensed dentist or appropriately equipped school or public institution, under the supervision of a dentist, so that, for the purposes of this Executive Order only, dental hygienists who have been issued a dental hygiene restricted local infiltration anesthesia/nitrous oxide analgesia certificate in accordance with section 6605-b of the Education Law and section 61.17 of Title 8 of the NYCRR may administer vaccinations against influenza and COVID-19 pursuant to a non-patient specific order at Points of Dispensing (POD) sites overseen or approved by the New York State Department of Health or local health departments and operated under the medical supervision of licensed physicians, licensed physician assistants, or certified nurse practitioners, provided such dental hygienists first receive training in the following areas, as determined by the Commissioner of Health after consultation with the Commissioner of Education: (1) techniques, indications, precautions, contraindications, infection control practices; (2) use of personal protective equipment sufficient to provide the basic level of competence for such tasks; and (3) a current certificate in basic cardiopulmonary resuscitation, which at a minimum must include a certification in basic cardiopulmonary resuscitation by an online program that has received accreditation from the American Nurses Credentialing Center, the Accreditation Council for Pharmacy Education (ACPE), or the Accreditation Council for Continuing Medical Education;
- Subdivisions 1 and 2 of section 7001 of the Education Law insofar as it limits the practice of podiatry to the treatment of the foot, to the exclusion of any other part of the human body, so that, for the purposes of this Executive Order only, podiatrists may administer vaccinations against influenza and COVID-19 pursuant to a non-patient specific order at Points of Dispensing (POD) sites overseen or approved by the New York State Department of Health or local health departments and operated under the medical supervision of licensed physicians, licensed physician assistants, or certified nurse practitioners, provided such podiatrists first receive training in the following areas, as determined by the Commissioner of Health after consultation with the Commissioner of Education: (1) techniques, indications, precautions, contraindications, infection control practices; (2) use of personal protective equipment sufficient to provide the basic level of competence for such tasks; and (3) a current certificate in basic cardiopulmonary resuscitation, which at a minimum must include a certification in basic cardiopulmonary resuscitation by an online program that has received accreditation from the American Nurses Credentialing Center, the Accreditation Council for Pharmacy Education (ACPE), or the Accreditation Council for Continuing Medical Education;
- Subdivisions 6 and 7 of section 3001 of the Public Health Law, subdivisions o and p of section 800.3, and section 800.15 of Title 10 of the NYCRR insofar as they limit the responsibilities of emergency medical technicians and advanced emergency medical technicians to administration or supervision of initial emergency medical care and transportation of sick or injured persons and insofar as they require emergency medical technicians and advanced emergency medical technicians to treat patients in accordance with applicable State-

approved protocols unless authorized to do otherwise for an individual patient by a medical control physician, so that, for the purposes of this Executive Order only, emergency medical technicians and advanced emergency medical technicians may administer vaccinations against influenza and COVID-19 pursuant to a non-patient specific order sites overseen or approved by the New York State Department of Health or local health departments and operated under the medical supervision of licensed physicians, licensed physician assistants, or certified nurse practitioners, provided such EMTs first receive training in the following areas, as determined by the Commissioner of Health after consultation with the Commissioner of Education: (1) techniques, indications, precautions, contraindications, infection control practices; (2) use of personal protective equipment sufficient to provide the basic level of competence for such tasks; and (3) a current certificate in basic cardiopulmonary resuscitation, which at a minimum must include a certification in basic cardiopulmonary resuscitation by an online program that has received accreditation from the American Nurses Credentialing Center, the Accreditation Council for Pharmacy Education (ACPE), or the Accreditation Council for Continuing Medical Education;

- Subdivision (7) of Public Health Law section 3001, and subdivision (p) of section 800.3 of Title 10 of the NYCRR, to the extent necessary to allow certified emergency medical technician-paramedics, providing community paramedicine services in accordance with Executive Order 202 and with prior approval of the Department of Health, to administer vaccinations against influenza and COVID-19 pursuant to a non-patient specific order and under the medical direction of a licensed physician. Provided, however, that emergency medical technician-paramedics must first receive training in the following areas, as determined by the Commissioner of Health after consultation with the Commissioner of Education: (1) techniques, indications, precautions, contraindications, infection control practices; (2) use of personal protective equipment sufficient to provide the basic level of competence for such tasks and (3) a current certificate in basic cardiopulmonary resuscitation, which at a minimum must include a certification in basic cardiopulmonary resuscitation by an online program that has received accreditation from the American Nurses Credentialing Center, the Accreditation Council for Pharmacy Education (ACPE), or the Accreditation Council for Continuing Medical Education;
- Paragraphs a, b, and c of subdivision 2 of section 6801 of the Education Law, and paragraph 5 of subdivision b of section 63.9 of Title 8 of the NYCRR, insofar as they require licensed pharmacists administering immunizing agents pursuant to a non-patient specific regimen to report such administrations to patients' attending physicians and provide information to patients on the importance of having a primary health care practitioner, so that, for purposes of this Executive Order only, licensed pharmacists may administer vaccinations against influenza and COVID-19 without reporting such administrations to patients' attending physicians, but must, at a minimum, report the vaccination to the CIR or NYSIIS;
- Subparagraph ii of Paragraph 3 of subdivision a of section 64.7 of Title 8 of the NYCRR, insofar as it requires registered professional nurses administering immunizing agents pursuant to a non-patient specific regimen to report such administration to patients' attending physicians, so that, for the purposes of this Executive Order, registered professional nurses may administer vaccinations against influenza and COVID-19 without reporting such administrations to patients' attending physicians, but, at a minimum, must report the vaccination to the CIR or NYSIIS, as applicable;
- Paragraph 3 of subdivision a of section 29.2 of Title 8 of the NYCRR, insofar as it makes it an act of professional misconduct for the professions listed within that section to fail to maintain and retain a record for each patient which accurately reflects the evaluation and treatment of the patient, so that, for the purposes of this Executive Order only, persons practicing the professions listed within that section who are authorized to administer vaccinations pursuant to this Executive Order are not required to maintain and retain such record for those to whom they administer vaccinations against influenza or COVID-19, provided that such persons must comply with all recordkeeping requirements directed by the Department of Health;
- Clause d of subparagraph ii of paragraph 3 of subdivision a of section 64.7 of Title 8 of the NYCRR, insofar as it requires a registered professional nurse administering an immunizing agent pursuant to a non-patient specific regimen to ensure that a record of all persons immunized is recorded, maintained, and retained in accordance with paragraph 3 of subdivision a of section 29.2 of the regulations of the Board of Regents of the State Education Department, so that, for the purposes of this Executive Order only, registered professional nurses are not required to ensure that such a record is maintained and retained for those to whom they administer vaccinations against influenza or COVID-19, provided that such persons must comply with all recordkeeping requirements directed by the Department of Health;
- Subparagraph xi of paragraph 5 of subdivision b of section 63.9 of Title 8 of the NYCRR, insofar as it requires a pharmacist administering an immunizing agent pursuant to a non-patient specific regimen to ensure that a record of all persons immunized is recorded, maintained, and retained in accordance with paragraph 3 of subdivision a of section 29.2 of the regulations of the Board of Regents of the State Education Department, so that, for the purposes of this Executive Order only, pharmacists are not required to ensure that such a record is maintained and retained for those to whom they administer vaccinations against influenza and COVID-19, provided that such persons must comply with all recordkeeping requirements directed by the Department of Health;
- Subparagraph i of paragraph 2 of subdivision a of section 64.7 of Title 8 of the NYCRR, insofar as it requires a registered professional nurse authorized to administer immunization agents pursuant to a non-patient specific order to be currently certified in cardio-pulmonary resuscitation (CPR), to clarify that for the purpose of this Executive Order, registered professional nurses must have a current certificate in basic cardiopulmonary resuscitation, which at a minimum must include a certification in basic cardiopulmonary resuscitation by an online program that has received accreditation from the American Nurses Credentialing Center, the Accreditation Council for Pharmacy Education (ACPE), or the Accreditation Council for Continuing Medical Education;
- The modification in Executive Order 202.10 of paragraph 1 of section 6542 of the Education Law to the extent necessary to include any associated regulations, including, but not limited to, subdivisions (a) and (b) of section 94.2 of Title 10 of the NYCRR and paragraph 5 of subdivision a of section 29.2 of Title 8 of the NYCRR in order to permit a physician assistant to provide medical services appropriate to their education, training and experience without oversight from a supervising physician, including, but not limited to, administering COVID-19 and influenza vaccine and medically supervising points of dispensing or other types of vaccination sites, as permitted by this Executive Order, without civil or criminal penalty related to a lack of oversight by a supervising physician;
- The modification in Executive Order 202.10 of subdivision (3) of section 6902 of Education Law, and any associated regulations, including, but not limited to, sections 29.2, 29.14, and 64.5 of Title 10 of the NYCRR, to the extent necessary to permit a nurse practitioner to provide medical services appropriate to their education, training and experience, without a written practice agreement, or collaborative relationship with a physician, including, but not limited to, administering



COVID-19 and influenza vaccine and medically supervising points of dispensing or other types of vaccination sites, as permitted by this Executive Order, without civil or criminal penalty related to a lack of written practice agreement, or collaborative relationship, with a physician;

- Section 2168 of the Public Health Law and section 66-1.2 of Title 10 of the NYCRR, to the extent necessary to: (1) suspend the requirement that persons 19 years of age or older must consent to have their immunization information reported to the New York State Immunization Information Registry (NYSIIS) or the City Immunization Registry (CIR), so that for the purposes of this Executive Order, the New York State Commissioner of Health or the New York City Commissioner of Health may include adult immunization information in NYSIIS or the CIR, as applicable, without the consent of the vaccine, and subject to guidance issued by the New York State Department of Health; and (2) require all influenza and COVID-19 vaccinations for any individual (child or adult) to be reported to the NYSIIS or CIR, as applicable, within 24 hours of administration of such vaccine. Nothing in this provision shall be read to permit the vaccination of any person without their consent, or the consent of another person legally authorized to provide such consent on their behalf such as a parent or guardian;
- The temporary modification of Title V of Article 5 of the Public Health Law and parts 19 and 58 of Title 10 of the NYCRR, contained in EO 202.10, as extended, authorizing certain laboratories to perform testing for the detection of SARS-CoV-2 specimens, to the extent necessary to further allow laboratories holding a Clinical Laboratory Improvement Acts (CLIA) certificate in the relevant specialty of testing and meeting the CLIA quality standards described in 42 CFR Subparts H, J, K and M, upon approval from the Department of Health, to perform testing for the detection of influenza virus, respiratory syncytial virus RNA, or other respiratory panels as approved by the Department of Health, in specimens collected from individuals suspected of suffering from a COVID-19 infection, including postmortem specimens;
- The temporary modification of Sections 8602 and 8603 of the Education Law, and section 58-1.5 of Title 10 of the NYCRR, contained in EO 202.16, as extended, insofar as such modification authorized individuals to perform testing for the detection of SARS-CoV-2, or its antibodies, in specimens collected from individuals suspected of suffering from a COVID-19 infection, to the extent necessary to further allow such individuals to perform any clinical laboratory test on any specimen, provided such individual is under appropriate supervision and meets the federal requirements for testing personnel appropriate to the assay or device authorized by the FDA or the New York State Department of Health;
- The temporary modification of Section 6801 of the Education Law, contained in EO 202.24, as extended, insofar as such modification authorized licensed pharmacists to order and administer COVID-19 tests, to the extent necessary to further allow licensed pharmacists to order tests for the detection of influenza virus or respiratory syncytial virus RNA, in specimens collected from individuals suspected of suffering from a COVID-19 or influenza infection; and to administer tests for the detection of influenza virus or respiratory syncytial virus RNA, subject to certificate of waiver requirements pursuant to the federal clinical laboratory improvement act of nineteen hundred eighty-eight, in patients suspected of suffering from a COVID-19 or influenza infection, or suspected of having recovered from COVID-19 infection, upon completion of appropriate training developed by the Department of Health.
- The provision of EO 202.1 as extended, that suspended and/or modified parts 709 and 710 of Title 10 of the NYCRR, to the extent necessary to allow construction applications for temporary hospital locations and extensions to be approved by the Commissioner of Health without considering the rec-

ommendation of the health systems agency or the Public Health and Health Planning Council, is modified to clarify that such temporary location and extensions may include temporary vaccination sites;

- Section 6808 of the Education Law and any regulations promulgated thereunder, to the extent necessary to permit an authorized vaccine provider within New York State to furnish federal COVID-19 vaccine and ancillary supplies (obtained as a result of enrollment in the CDC COVID-19 Vaccination Program) to another authorized vaccine provider within New York State, who has also enrolled in the CDC COVID-19 Vaccination Program, for the purposes of administering such vaccination at no cost and subject to applicable storage and handling requirements; the conditions set forth in CDC COVID-19 Vaccination Program Provider Agreement; and any guidance issued by the New York State Department of Health in consultation with the New York State Education Department;

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby issue the following directives for the period from the date of this Executive Order through January 12, 2021:

- Individuals enrolled in the following educational programs may administer vaccinations against influenza and COVID-19 pursuant to a non-patient specific order at Points of Dispensing (POD) sites overseen or approved by the New York State Department of Health or local health departments and operated under the medical supervision of licensed physicians, licensed physician assistants, or certified nurse practitioners, provided such students have completed at least one year of clinical experience (unless otherwise specified in this Executive Order) and first receive training in the following areas, as determined by and in accordance with guidance issued by the Commissioner of Health after consultation with the Commissioner of Education: (1) techniques, indications, precautions, contraindications, infection control practices; (2) use of personal protective equipment sufficient to provide the basic level of competence for such tasks; (3) a current certificate in basic cardiopulmonary resuscitation, which at a minimum must include a certification in basic cardiopulmonary resuscitation by an online program that has received accreditation from the American Nurses Credentialing Center, the Accreditation Council for Pharmacy Education (ACPE), or the Accreditation Council for Continuing Medical Education (4) subject to any other conditions as specified by the Commissioner of Health in consultation with the Commissioner of Education, including but not limited to requiring the applicable educational institutions and programs in which students are enrolled to assess such students' vaccine administration skills and issue an attestation on a form to be approved by the Commissioners of Health and Education that such students have completed all required trainings and displayed competence in vaccine administration:
  - o A medical program approved and/or registered the State Education Department pursuant to Article 131 of the Education Law and Part 60 of Title 8 of the NYCRR;
  - o A registered professional nursing program or licensed practical nursing program approved and/or registered by the State Education Department pursuant to Article 139 of the Education Law and Part 64 of Title 8 of the NYCRR;
  - o A physician assistant program approved and/or registered by the State Education Department pursuant to Article 131-B of the Education Law and Part 60 of Title 8 of the NYCRR;
  - o A pharmacy program approved and/or registered by the State Education Department pursuant to Article 137 of the Education Law and Part 63 of Title 8 of the NYCRR. For the purposes of this Executive Order, pharmacy students who have obtained a limited permit, including a certificate



to administer immunizations, pursuant to section 6806 of the Education Law and section 63.4 of Title 8 of the NYCRR shall be deemed to have the minimum necessary clinical experience to administer COVID-19 and influenza vaccinations in a POD setting, provided such students meet all other training requirements and adhere to all applicable guidance set forth above;

- o A dentistry program approved and/or registered by the State Education Department pursuant to Article 133 of the Education Law and Part 61 of Title 8 of the NYCRR;
- o A podiatric medicine program approved and/or registered by the State Education Department pursuant to Article 141 of the Education Law and Part 65 of Title 8 of the NYCRR;
- o A midwifery program approved and/or registered by the State Education Department pursuant to Article 140 of the Education Law and Subpart 79-5 of Title 8 of the NYCRR.
- Any licensed physician, licensed physician assistant, and certified nurse practitioner medically supervising Points of Dispensing (POD) sites or other types of vaccination sites, as permitted by this Executive Order, and overseen or approved by the New York State Department of Health or local health departments must have a current certification in cardiopulmonary resuscitation (CPR);
- Within 60 days of this Order, all clinical laboratories permitted by the Department of Health pursuant to Article 5, Title 5 of the Public Health Law, and having more than 25 employees, must become qualified entity participants and connect to the SHIN-NY through a qualified entity, and must allow private and secure bi-directional access to patient information by other qualified entity participants authorized by law to access such patient information, pursuant to Part 300 of Title 10 of the NYCRR;

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this thirteenth day of December in the year two thousand twenty.

*BY THE GOVERNOR*

/S/ Andrew M. Cuomo

/s/ Melissa DeRosa

*Secretary to the Governor*

